DEPARTMENT OF HEALTH

Adoption of Chapter 11-281 Hawaii Administrative Rules

SUMMARY

Chapter 11-281, Hawaii Administrative Rules, entitled "Underground Storage Tanks", is adopted.

UNOFFICIAL

HAWAII ADMINISTRATIVE RULES

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 281

UNDERGROUND STORAGE TANKS

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SUBCHAPTER 1

SCOPE AND PROHIBITION

- §11-281-01 Applicability. (a) The requirements of this chapter apply to all owners and operators of underground storage tanks or tank systems as defined in section 11-281-03 except as otherwise provided in subsections (b), (c), and (d). Any UST or tank system listed in subsection (c) must meet the requirements of section 11-281-02.
- (b) The following USTs or tank systems are excluded from the requirements of this chapter:
 - (1) Any UST or tank system holding hazardous wastes listed or identified under chapter 342J, Hawaii Revised Statutes or the rules adopted thereunder, or Subtitle C of the federal Solid Waste Disposal Act, or a mixture of such hazardous waste and other regulated substances.
 - (2) Any wastewater treatment UST system that is part of a wastewater treatment facility regulated under chapter 342D, Hawaii Revised Statutes or section 402 or 307(b) of the federal Clean Water Act (33 U.S.C. section 1342 or 1317).
 - (3) Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks.
 - (4) Any UST or tank system whose capacity is 110 gallons or less.
 - (5) Any UST or tank system that contains a <u>de</u> <u>minimis</u> concentration of regulated substances.
 - (6) Any emergency spill or overflow containment UST or tank system that is expeditiously emptied after use.
- (c) Subchapters 2, 3, 4, 5, 6, 8, and 9 are deferred for the following types of USTs or tank systems:
 - (1) Wastewater treatment USTs or tank systems;
 - (2) Any USTs or tank systems containing radioactive material that are regulated under the federal Atomic Energy Act of 1954 (42 U.S.C. section 2011 and following);
 - (3) Any UST or tank system that is part of an emergency generator system at nuclear power

generation facilities regulated by the federal Nuclear Regulatory Commission under 10 C.F.R. Part 50, Appendix A;

- (4) Airport hydrant fuel distribution USTs and tank systems; and
- (5) USTs or tank systems with field-constructed USTs.
- (d) Subchapter 5 does not apply to any UST or tank system that stores fuel solely for use by emergency power generators. [Eff] (Auth: HRS §342L-3) (Imp: 40 C.F.R. §280.10)

§11-281-02 Prohibition for deferred underground storage tanks or tank systems. (a) No person may install an UST or tank system listed in section 11-281-01(c) for the purpose of storing regulated substances unless the UST or tank system (whether of single- or double-wall construction):

- (1) Will prevent releases due to corrosion or structural failure for the operational life of the UST or tank system;
- (2) Is cathodically protected against corrosion, constructed of noncorrodible material, steel clad with a noncorrodible material, or designed in a manner to prevent the release or threatened release of any stored substance; and
- (3) Is constructed or lined with material that is compatible with the stored substance.
- (b) Notwithstanding subsection (a), an UST or tank system without corrosion protection may be installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life. Owners and operators must maintain records that demonstrate compliance with the requirements of this subsection for the remaining life of the UST or tank system.

NOTE: The National Association of Corrosion Engineers Standard RP0285-95, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems", may be helpful in

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complying with subsection (b). [Eff (Auth: HRS §342L-3) (Imp: 40 C.F.R. §280.11)

§11-281-03 <u>Definitions</u>. As used in this chapter:
"Aboveground release" means any release to the
surface of the land or to surface water. This
includes, but is not limited to, releases from the
aboveground portion of an UST or tank system and
aboveground releases associated with overfills and
transfer operations as the regulated substance moves to
or from an UST or tank system.

"Ancillary equipment" means any devices including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps used to distribute, meter, or control the flow of regulated substances to and from an UST or tank system.

"Belowground release" means any release to the subsurface of the land or to ground water. This includes, but is not limited to, releases from the below ground portions of an UST or tank system and belowground releases associated with overfills and transfer operations as the regulated substance moves to or from an UST or tank system.

"Beneath the surface of the ground" means beneath the ground surface or otherwise covered with earthen materials.

"Cathodic protection" is a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, an UST or tank system can be cathodically protected through the application of either galvanic anodes or impressed current.

"Cathodic protection tester" means a person who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and USTs or tank systems. At a minimum, such persons must have education and experience in soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements of buried metal piping and USTs or tank systems.

"Compatible" means the ability of two or more substances to maintain their respective physical and

chemical properties upon contact with one another for the design life of the UST or tank system under conditions likely to be encountered in the UST or tank system.

"Complaint" means any written charge filed with or by the department that a person is violating or has violated any provision of chapter 342L, Hawaii Revised Statutes, this chapter, or a permit, variance, or order issued pursuant to this chapter or chapter 342L, Hawaii Revised Statutes.

"Connected piping" means all underground piping including valves, elbows, joints, flanges, and flexible connectors attached to an UST or tank system through which regulated substances flow. For the purpose of determining how much piping is connected to any individual UST or tank system, the piping that joins two USTs or tank systems should be allocated equally between them.

"Consumptive use" with respect to heating oil means consumed on the premises where stored.

"Corrective action" means those activities carried out in response to any release from an underground storage tank or tank system to minimize or mitigate the impact of the release of regulated substances in order to protect human health and the environment. The term may be used interchangeably with "release response action."

"Corrosion expert" means a person who, by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal USTs or tank systems. Such a person must be accredited or certified as being qualified by the National Association of Corrosion Engineers or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal USTs or tank systems.

"Department" means the state department of health.

"Dielectric material" means a material that does not conduct direct electrical current. Dielectric coatings are used to electrically isolate UST systems from the surrounding soils. Dielectric bushings are used to electrically isolate portions of the UST system (e.g., UST from piping).

"Director" means the director of the state department of health.

"Electrical equipment" means underground equipment that contains dielectric fluid that is necessary for the operation of equipment such as transformers and buried electrical cable.

"Excavation zone" means the volume containing the UST system and backfill material bounded by the ground surface, walls, and floor of the pit and trenches into which the UST system is placed at the time of installation.

"Existing underground storage tank" or "existing underground storage tank system" means an UST or tank system for which installation commenced on or before December 22, 1988. Installation is considered to have commenced if:

- (1) The owner or operator has obtained all federal, state, and county approvals or permits necessary to begin physical construction of the site or installation of the UST or tank system; and
- (2) Either a continuous on-site physical construction or installation program has begun, or the owner or operator has entered into contractual obligations--which cannot be canceled or modified without substantial loss--for physical construction at the site or installation of the UST or tank system to be completed within a reasonable time.

"Exposure assessment" means a determination regarding the extent of exposure of, or potential for exposure of, individuals to regulated substances from a release from an UST or tank system. An exposure assessment shall be based on factors such as the nature and extent of contamination, the existence of or potential for pathways of human exposure (including ground or surface water contamination, air emissions, dermal exposure, soil ingestion, and food chain contamination), the size of the community or communities within the likely pathways of exposure, an analysis of expected human exposure levels with respect

to short-term and long-term health effects associated with identified contaminants, and any available recommended exposure or tolerance limits for the contaminants.

"Farm" includes fish hatcheries, rangeland, and nurseries with growing operations.

"Farm tank" is a UST or tank system located on a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements. A farm UST must be located on the farm property and must be used only for farm related purposes.

"Field citation" as used in this subchapter is a "Field Citation" as referred to in Appendix VII entitled "Field Citation/Settlement Agreement", dated June 1999, which is made a part of this chapter and attached at the end of the chapter and which includes a Notice of Citation and Field Citation Order, and is valid after an authorized employee of the department signs and issues it to an owner or operator. A field citation is an offer to settle an administrative case involving a violation of this chapter and is not an administrative order.

"Flow-through process tank" is an UST or tank system that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process. Flow-through process USTs or tank systems do not include USTs used for the storage of materials prior to their introduction into the production process or for the storage of finished products or by-products from the production process.

"Force majeure" is any event arising from causes beyond the control of the owner or operator or of any entity controlled by the owner or operator (including, but not limited to, the owner or operator's contractors and subcontractors) that delays or prevents the performance of any obligation under the field citation, despite the owner or operator's best efforts to fulfill the obligation. The owner or operator's "best efforts to fulfill the obligation" include using good faith efforts to anticipate any potential force majeure event, and good faith efforts to address the effects of any potential force majeure event (1) as it is

occurring and (2) following the force majeure event, such that the delay is minimized to the greatest extent possible.

"Free product" refers to a regulated substance that is present as a non-aqueous phase liquid (e.g., liquid not dissolved in water.)

"Gathering lines" means any pipeline, equipment, facility, or building used in the transportation of oil or gas during oil or gas production or gathering operations.

"HRS" means the Hawaii Revised Statutes.

"Hazardous substance underground storage tank" or "hazardous substance underground storage tank system" means an UST or tank system that contains a hazardous substance defined in section 101(14) of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, (but not including any substance regulated as a hazardous waste under Subtitle C of the federal Resource Conservation and Recovery Act, as amended) or any mixture of such substances and petroleum, and which is not a petroleum UST or tank system.

"Heating oil" means petroleum that is No. 1, No. 2, No. 4-light, No. 4-heavy, No. 5-light, No. 5-heavy, and No. 6 technical grades of fuel oil; other residual fuel oils (including Navy Special Fuel Oil and Bunker C); and other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers, or furnaces.

"Hydraulic lift tank" means an UST or tank system holding hydraulic fluid for a closed-loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators, and other similar devices.

"Installation" means the act of installing a new UST or tank system or installing an existing UST or tank system at a new location.

"Liquid trap" means sumps, well cellars, and other traps used in association with oil and gas production, gathering, and extraction operations (including gas production plants), for the purpose of collecting oil, water, and other liquids. These liquid traps may temporarily collect liquids for subsequent disposition or reinjection into a production or pipeline stream, or may collect and separate liquids from a gas stream.

"Maintenance" means the normal operational upkeep to prevent an UST or tank system from releasing product.

"Motor fuel" means petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, or any grade of gasohol, and is typically used in the operation of a motor engine.

"New underground storage tank" or "new underground storage tank system" means an UST or tank system that will be used to contain an accumulation of regulated substances and for which installation has commenced after December 22, 1988. (See also "existing underground storage tank" or "existing underground storage tank system.")

"Noncommercial purposes" with respect to motor fuel means not for resale.

"On the premises where stored" with respect to heating oil means USTs or tank systems located on the same property where the stored heating oil is used.

"Operate" means to place or deposit a regulated substance into an UST or tank system, to dispense a regulated substance from an UST or tank system, to close an UST or tank system, to maintain an UST or tank system, and/or to exercise control of or responsibility for an UST or tank system on a daily basis regardless of whether a regulated substance is being actively managed on a daily basis.

"Operational life" refers to the period beginning when installation of the UST or tank system has commenced until the time the UST or tank system is properly closed under subchapter 8.

"Operator" means any person in control of, or having responsibility for, the daily operation of the UST or tank system.

"Overfill release" is a release that occurs when an UST is filled beyond its capacity, resulting in a discharge of the regulated substance to the environment.

"Owner" means:

(1) In the case of a particular UST or tank system in use or brought into use on or after November 8, 1984, any person who owns an UST or tank system; and

(2) In the case of a particular UST or tank system in use before November 8, 1984, but no longer in use after that date, any person who owned such an UST or tank system immediately before the discontinuation of its use.

"Permit" means written authorization, as provided for in section 342L-4, HRS, from the director to install or operate an UST or tank system. A permit authorizes owners or operators to install and operate an UST or tank system in a manner, or to do an act, not forbidden by chapter 342L, Hawaii Revised Statutes, or by this chapter, but requiring review by the department.

"Person" means an individual, trust, estate, firm, joint stock company, corporation (including a government corporation), partnership, association, commission, consortium, joint venture, commercial entity, the state or a county, the United States government, federal agency, interstate body, or any other legal entity.

"Petroleum" means petroleum, including crude oil or any fraction thereof, that is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute). The term includes but is not limited to petroleum and petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading and finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

"Petroleum underground storage tank" or "petroleum underground storage tank system" means an UST or tank system that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. Such tanks or tank systems include those containing motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

"Pipe" or "piping" means a hollow cylinder or tubular conduit that is constructed of non-earthen materials.

"Pipeline facilities" are new and existing pipe rights-of-way (including gathering lines) and any

associated equipment, facilities, or buildings.

"Provider of financial assurance" means a person that provides evidence of financial responsibility for one or more USTs or tank systems.

"Regulated substance" means an element, compound, mixture, solution, or substance that, when released into the environment, may present substantial danger to human health, welfare, or the environment. The term includes:

- (1) Any substance defined in section 101(14) of the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 (but not including any substance regulated as a hazardous waste under Subtitle C of the federal Resource Conservation and Recovery Act);
- (2) Petroleum; and
- (3) Any other substance as designated by the department.

"Release" includes, but is not limited to, any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from an UST or tank system.

"Release detection" means determining whether a release of a regulated substance has occurred from the UST or tank system into the environment or into the interstitial space between the UST system and its secondary barrier or secondary containment around it.

"Release response action" means those activities carried out in response to any release from an underground storage tank or tank system to minimize or mitigate the impact of the release of regulated substances in order to protect human health and environment. The term "release response action" may be used interchangeably with "corrective action".

"Repair" means to restore an UST or tank system component that has caused a release of product from the UST or tank system to the environment.

"Reportable quantity" means the quantities of regulated substances that must be reported to the department when released to the environment, as defined in section 11-451-6.

"Residential tank" is an UST or tank system located on property used primarily for dwelling purposes.

"Septic tank" is a water-tight covered receptacle designed to receive or process, through liquid separation or biological digestion, the sewage discharged from a building sewer. The effluent from such receptacle is distributed for disposal through the soil and settled solids and scum from the UST are pumped out periodically and hauled to a treatment facility.

"Storm-water collection system" or "wastewater collection system" means piping, pumps, conduits, and any other equipment necessary to collect and transport the flow of surface water run-off resulting from precipitation, or domestic, commercial, or industrial wastewater to and from retention areas or any areas where treatment is designated to occur. The collection of storm water and wastewater does not include treatment except where incidental to conveyance.

"Surface impoundment" is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials) that is not an injection well.

"Tank" is a stationary device designed to contain an accumulation of regulated substances and constructed of non-earthen materials (e.g., concrete, steel, plastic) that provide structural support.

"Technical Guidance Manual for Underground Storage Tank Closures and Release Response" or "TGM" means the Technical Guidance Manual for Underground Storage Tank Closure and Release Response published by the Hawaii department of health.

"Underground area" means an underground room, such as a basement, cellar, shaft or vault, providing enough space for physical inspection of the exterior of the tank situated on or above the surface of the floor.

"Underground release" means any belowground release.

"Underground storage tank" or "UST" means any one or combination of tanks (including pipes connected thereto) used to contain an accumulation of regulated substances, and the volume of which (including the volume of the underground pipes connected thereto) is 10 per cent or more beneath the surface of the ground. This term does not include any:

- (1) Farm or residential tank of one thousand one hundred gallons or less capacity used for storing motor fuel for noncommercial purposes. Farm tanks must be used only for farm related purposes;
- (2) Tank used for storing heating oil for consumptive use on the premises where stored;
- (3) Septic tank;
- (4) Pipeline facility (including gathering lines) regulated under:
 - (A) The federal Natural Gas Pipeline Safety Act of 1968, Public Law No. 90-481, as amended (49 U.S.C. App. 1671, et seq.); or
 - (B) The federal Hazardous Liquid Pipeline Safety Act of 1979, Public Law No. 96-129, as amended (49 U.S.C. App. 2001, et seq.);
- (5) Surface impoundment, pit, pond, or lagoon;
- (6) Storm water or wastewater collection system;
- (7) Flow-through process tank;
- (8) Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; and
- (9) Storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor.

The term "underground storage tank" or "UST" does not include any pipes connected to any tank which is described in paragraphs (1) through (9) of this definition.

"Underground storage tank system" or "UST system" or "tank system" means an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any.

"Upgrade" means the addition or retrofit of some systems such as cathodic protection, lining, or spill and overfill controls to improve the ability of an UST or tank system to prevent the release of product.

"Variance" means a special written authorization from the director to own, install, or operate an UST or tank system in a manner deviating from, or to do an act that deviates from, the requirements of this chapter that are more stringent than 40 CFR Part 280.

"Wastewater treatment tank" means an UST tank that is designed to receive and treat an influent wastewater through physical, chemical, or biological methods.

[Eff] (Auth: HRS §342L-3) (Imp: 40 C.F.R. §280.12)

§§11-281-04 to 11-281-10 (Reserved)

SUBCHAPTER 2

DESIGN, CONSTRUCTION, AND INSTALLATION

- §11-281-11 Performance standards for underground storage tanks and tank systems. (a) In order to prevent releases due to structural failure, corrosion, or spills and overfills for as long as the UST or tank system is used to store regulated substances, all owners and operators of hazardous substance USTs or tank systems installed after December 22, 1988, must meet the requirements of this subchapter.
- (b) In order to prevent releases due to structural failure, corrosion, or spills and overfills for as long as the UST or tank system is used to store regulated substances, all owners and operators of petroleum USTs or tank systems installed after December 22, 1988, but before the effective date of these rules must meet all the requirements of this subchapter except for section 11-281-17.
- (c) In order to prevent releases due to structural failure, corrosion, or spills and overfills for as long as the UST or tank system is used to store regulated substances, all owners and operators of petroleum USTs or tank systems installed on or after the effective date of these rules must meet the requirements of this subchapter. [Eff] (Auth: HRS §§342L-32) (Imp: 40 C.F.R. §280.20)
- §11-281-12 <u>Tank requirements</u>. Each UST must be properly designed, constructed, and installed, and

any portion underground that routinely contains product must be protected from corrosion, in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified below. All USTs must meet one of the following requirements:

(1) The UST is constructed of fiberglass-reinforced plastic; or

NOTE: The following industry codes may be helpful in complying with paragraph (1):

- A. Underwriters Laboratories Standard 1316,
 "Standard for Glass-Fiber-Reinforced
 Plastic Underground Storage Tanks for
 Petroleum Products";
- B. Underwriter's Laboratories of Canada CAN4-S615-M83; "Standard for Reinforced Plastic Underground Tanks for Petroleum Products";
- C. American Society of Testing and Materials Standard D4021-86 "Standard Specification for Glass-Fiber-Reinforced Polyester Underground Petroleum Storage Tanks.".
- (2) The UST is constructed of steel and shall be cathodically protected in the following manner:
 - (A) The UST shall be coated with a suitable dielectric material;
 - (B) Field-installed cathodic protection systems must be designed by a corrosion expert;
 - (C) Impressed current systems shall be designed to allow determination of current operating status as required in section 11-281-42; and
 - (D) Cathodic protection systems shall be operated and maintained in accordance with section 11-281-42; or

NOTE: The following codes and standards may be helpful in complying with paragraph (2): A. Steel Tank Institute "Specification for

- STI-P3 System of External Corrosion Protection of Underground Steel Storage Tanks";
- B. Underwriters Laboratories Standard 1746, "Corrosion Protection Systems for Underground Storage Tanks";
- C. Underwriters Laboratories of Canada CAN4-S603-M85, "Standard for Steel Underground Tanks for Flammable and Combustible Liquids", CAN4-G03.1-M85, "Standard for Galvanic Corrosion Protection Systems for Underground Tanks for Flammable and Combustible Liquids", and CAN4-S631-M84, "Isolating Bushings for Steel Underground Tanks Protected with Coatings and Galvanic Systems"; or
- D. National Association of Corrosion
 Engineers Standard RP0285-85, "Control
 of External Corrosion on Metallic
 Buried, Partially Buried, or Submerged
 Liquid Storage Systems", and
 Underwriters Laboratories Standard 58,
 "Standard for Steel Underground Tanks
 for Flammable and Combustible Liquids".
- (3) The UST is constructed of a steel-fiberglass-reinforced-plastic composite; or

NOTE: The following industry codes may be helpful in complying with paragraph (3):

- A. Underwriters Laboratories Standard 1746, "Corrosion Protection Systems for Underground Storage Tanks"; or
- B. Association for Composite Tanks ACT-100, "Specification for the Fabrication of FRP Clad Underground Storage Tanks".
- (4) The UST is constructed of metal without additional corrosion protection measures provided that:
 - (A) The UST is installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its

operating life; and

(B) The owners and operators maintain records that document and demonstrate compliance with the requirements of subparagraph (4)(A) for the remaining life of the UST;

or

§11-281-13 Piping requirements. The piping that routinely contains regulated substances and is in contact with the ground must be properly designed, constructed, and protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified below. All piping must meet one of the following requirements:

(1) The piping is constructed of fiberglassreinforced plastic; or

NOTE: The following codes and standards may be helpful in complying with paragraph (1):

- A. Underwriters Laboratories Subject 971, "UL Listed Non-Metal Pipe";
- B. Underwriters Laboratories Standard 567, "Pipe Connectors for Flammable and Combustible and LP Gas";
- C. Underwriters Laboratories of Canada Guide ULC-107, "Glass Fiber Reinforced Plastic Pipe and Fittings for Flammable Liquids"; and
- D. Underwriters Laboratories of Canada Standard CAN 4-S633-M81, "Flexible

Underground Hose Connectors".

- (2) The piping is constructed of steel and cathodically protected in the following manner:
 - (A) The piping shall be coated with a suitable dielectric material;
 - (B) Field-installed cathodic protection systems must be designed by a corrosion expert;
 - (C) Impressed current systems shall be designed to allow determination of current operating status as required in section 11-281-42; and
 - (D) Cathodic protection systems shall be operated and maintained in accordance with section 11-281-42;

or

NOTE: The following codes and standards may be helpful in complying with paragraph (2):

- A. National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code";
- B. American Petroleum Institute Publication 1615, "Installation of Underground Petroleum Storage Systems";
- C. American Petroleum Institute Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems"; and
- D. National Association of Corrosion Engineers Standard RP0169-92, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems".
- (3) The piping is constructed of metal without additional corrosion protection measures provided that:
 - (A) The piping is installed at a site that is determined by a corrosion expert to not be corrosive enough to cause it to have a release due to corrosion during its operating life; and

(B) The owners and operators maintain records that demonstrate compliance with the requirements of subparagraph (3)(A) for the remaining life of the piping.

NOTE: The following codes and standards may be helpful in complying with paragraph (3):

- A. National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code"; and
- B. National Association of Corrosion Engineers Standard RP0169-92, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems".
- §11-281-14 Spill and overfill prevention equipment. (a) Except as provided in subsection (b), to prevent spilling and overfilling associated with product transfer to an UST or tank system, owners and operators must use the following spill and overfill prevention equipment:
 - (1) Spill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe (for example, a spill catchment basin); and
 - (2) Overfill prevention equipment that will:
 - (A) Automatically shut off flow into the UST when the UST is more than ninety-five percent full;
 - (B) Alert the transfer operator when the UST

- is more than ninety percent full by restricting the flow into the UST or triggering a high-level alarm; or
- (C) Restrict flow thirty minutes prior to overfilling, or alert the operator with a high-level alarm one minute before overfilling, or automatically shut off flow into the UST so that none of the fittings located on top of the UST are exposed to product due to overfilling.
- (b) Owners and operators are not required to use the spill and overfill prevention equipment specified in subsection (a) if:
 - (1) Alternative equipment is used that is determined by the department to be no less protective of human health and the environment than the equipment specified in subsection (a); or
 - (2) The UST or tank system is filled by transfers of no more than twenty-five gallons at one time.
- (c) Spill and overfill prevention methods that rely on the use of alarms must have the alarms clearly labeled and located where the delivery person can clearly see or hear the alarm in order to immediately stop delivery of the product. [Eff (Auth: HRS §§342L-3, 342L-32) (Imp: 40 C.F.R. §280.20)

§11-281-15 <u>Installation</u>. All USTs and piping must be properly installed in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and in accordance with the manufacturer's instructions.

NOTE: UST and piping system installation practices and procedures described in the following codes may be helpful in complying with the requirements of this section:

- A. American Petroleum Institute Publication 1615, "Installation of Underground Petroleum Storage System"; or
- B. Petroleum Equipment Institute Publication

- RP100-94, "Recommended Practices for Installation of Underground Liquid Storage Systems"; or
- C. American National Standards Institute Standard B31.3, "Petroleum Refinery Piping," and American National Standards Institute Standard B31.4 "Liquid Petroleum Transportation Piping System." [Eff] (Auth: HRS §§342L-3, 342L-32) (Imp: 40 C.F.R. §280.20)

§11-281-16 <u>Certification of installation</u>. (a) All owners and operators must ensure that one or more of the following methods of certification, testing, or inspection is used to demonstrate compliance with section 11-281-15:

- (1) The installer has been certified by the UST and piping manufacturers;
- (2) The installation has been inspected and certified by a licensed professional engineer with education and experience in UST or tank system installation;
- (3) All work listed in the manufacturer's installation checklists have been completed and the checklists maintained; or
- (4) The owner or operator has complied with another method for ensuring compliance with section 11-281-15 that is determined by the department to be no less protective of human health and the environment.
- (b) All owners and operators shall certify compliance with subsection (a) by completing and submitting to the department one of the following forms:
 - (1) Notification for Underground Storage Tanks (Appendix I entitled "Notification for Underground Storage Tanks", dated June 1999, which is made a part of this chapter and attached at the end of this chapter);
 - (2) Certification of Underground Storage Tank
 Installation (Appendix III entitled
 "Certification of Underground Storage Tank
 Installation", dated June 1999, which is made

a part of this chapter and attached at the end of this chapter). [Eff] (Auth: HRS §§342L-3, 342L-32) (Imp: 40 C.F.R. §280.20)

§11-281-17 <u>Secondary containment</u>. (a) Secondary containment systems must be designed, constructed, and installed to:

- (1) Contain regulated substances released from the UST or tank system until they are detected and removed;
- (2) Prevent the release of regulated substances to the environment at any time during the operational life of the UST or tank system; and
- (3) For hazardous substance USTs or tank systems installed after December 22, 1988, be checked for evidence of a release at least every thirty calendar days; and for petroleum USTs or tank systems installed on or after the effective date of these rules, provide release detection as required in section 11-281-51(e).
- (b) Double-walled USTs must be designed, constructed, and installed to:
 - (1) Contain a release from any portion of the inner UST within the outer wall until removed; and
 - (2) Detect the failure of the inner and outer walls.
- (c) External liners (including vaults) must be designed, constructed, and installed to:
 - (1) Contain one hundred percent of the capacity of the largest UST within its boundary;
 - (2) Prevent precipitation or ground water intrusion from interfering with the ability to contain or detect a release of regulated substances; and
 - (3) Surround the UST completely to effectively prevent lateral and vertical migration of regulated substances in the event of a release.
 - (d) Underground piping must be equipped with

secondary containment (e.g., trench liners, double-walled pipes, etc.) that meets the requirements of subsection (a). In addition, pressurized piping must be equipped with an automatic line leak detector that complies with section 11-281-53. [Eff]
(Auth: HRS §§342L-3, 342L-32) (Imp: 40 C.F.R. §280.42)

- §11-281-18 Upgrading of existing underground storage tanks and tank systems. (a) Not later than the effective date of these rules, all existing USTs or tank systems must comply with one of the following requirements:
 - (1) Performance standards established in sections 11-281-11 through 11-281-16;
 - (2) The upgrading requirements in subsections (b) through (d); or
 - (3) Change-in-service or closure requirements under subchapter 8, including applicable requirements for release response actions under subchapter 7.
- (b) Not later than the effective date of these rules, existing steel USTs or UST systems must be upgraded to meet one of the following requirements in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory:
 - (1) An UST may be upgraded by internal lining if:
 - A) The lining is installed in accordance with the requirements of section 11-281-44, and
 - (B) Within ten years after the installation of the lining, and every five years thereafter, the lined UST is internally inspected and found to be structurally sound with the lining still performing in accordance with original design specifications.
 - (2) An UST may be upgraded by cathodic protection if the cathodic protection system meets the requirements of sections 11-281-12(2)(B), (C) and (D), and the integrity of the UST is ensured using one of the following methods:

- (A) The UST is internally inspected and assessed to ensure that the UST is structurally sound and free of corrosion holes prior to installing the cathodic protection system;
- (B) The UST has been installed for less than ten years and is monitored monthly for releases in accordance with section 11-281-52;
- (C) The UST has been installed for less than ten years and is assessed for corrosion holes by conducting two tightness tests that meet the requirements of section 11-281-52. The first tightness test must be conducted prior to installing the cathodic protection system. The second tightness test must be conducted between three and six months following the first operation of the cathodic protection system; or
- (D) The UST is assessed for corrosion holes by a method that is determined by the department to prevent releases in a manner that is not less protective of human health and the environment than subparagraphs (b)(2)(A) through (C).
- (3) An UST may be upgraded by both internal lining and cathodic protection if:
 - (A) The lining is installed in accordance with the requirements of section 11-281-44; and
 - (B) The cathodic protection system meets the requirements of section 11-281-12(2)(B) through (D).

NOTE: The following codes and standards may be helpful in complying with subsection (b):

- A. American Petroleum Institute Publication 1631, "Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks";
- B. National Leak Prevention Association Standard 631, "Entry, Cleaning, Interior Inspection, Repair and Lining of Underground Storage

Tanks";

- C. National Association of Corrosion Engineers Standard RP0285-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems"; and
- D. American Petroleum Institute Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems."
- (c) Not later than the effective date of these rules, all existing UST metal pipings that routinely contain regulated substances and are in contact with the ground must be cathodically protected in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and must meet the requirements in sections 11-281-13(2)(B) through (D).

NOTE: The following codes and standards may be helpful in complying with subsection (c):

- A. National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code";
- B. American Petroleum Institute Publication 1615, "Installation of Underground Petroleum Storage Systems";
- C. American Petroleum Institute Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems"; and
- D. National Association of Corrosion Engineers Standard RP0169-92, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems".
- (d) To prevent spilling and overfilling associated with product transfer to the UST or tank system, all existing USTs or tank systems must comply with the performance standard for spill and overfill prevention equipment as specified in section 11-281-14 no later than the effective date of these rules.
- (e) Any existing UST or UST system that fails to meet any of the requirements of subsections (b) through (d) must comply with paragraph (a)(1) or (a)(3) no

later than the effective date of these rules. [Eff] (Auth: HRS §§342L-3, 342L-32) (Imp: 40 C.F.R. §280.21)

§§11-281-19 to 11-281-20 (Reserved)

SUBCHAPTER 3

NOTIFICATION, PERMITS, AND VARIANCES

§11-281-21 Notification requirements for tanks brought into use before the effective date of these rules. As to tanks that were brought into use before the effective date of these rules:

- (1) Any person who acquires ownership of an UST or tank system that has not been permanently closed pursuant to subchapter 8 shall, within thirty days of acquiring ownership, submit to the department an amendment to the notification submitted by the previous owner to the department pursuant to section 342L-30, HRS. The amendment shall be on the form prescribed in Appendix I entitled "Notification for Underground Storage Tanks", dated June, 1999, which is made a part of this chapter and attached at the end of this chapter.
- (2) Within thirty days following a change of operator of an UST or tank system, the owner shall submit to the department an amendment to the notification previously submitted pursuant to section 342L-30, HRS. The amendment shall be on the form prescribed in Appendix I entitled "Notification for Underground Storage Tanks", dated June, 1999, which is made a part of this chapter and attached at the end of this chapter.
- (3) For any other changes in information submitted to the department on the notification form, the owner shall submit an amended notification within thirty days following the change, except that

notifications of permanent closures and changes in service under subchapter 8 must be received by the department at least thirty days before commencement of the closure or change in service. The amendment shall be on the form prescribed in Appendix I entitled "Notification for Underground Storage Tanks", dated June, 1999, which is made a part of this chapter and attached at the end of this chapter. Other changes in information shall include but not be limited to:

- (A) Permanent or temporary closures, including the return to currently-in-use status;
- (B) Changes in service under subchapter 8;
- (C) Repairs as defined in section 11-281-03;
- (D) Changes in piping;
- (E) Changes in type of regulated substances stored;
- (F) Changes in corrosion protection
 mechanism;
- (G) Changes in secondary containment;
- (H) Changes in product dispensing method;
- (I) Changes in financial responsibility mechanism;
- (J) Changes in leak detection method; and
- (K) Changes in spill and overfill prevention method. [Eff] (Auth: HRS §342L-3) (Imp: HRS §342L-30)

§11-281-22 Notification requirements for tanks brought into use on or after the effective date of these rules. As to tanks that were brought into use on or after the effective date of these rules, the owners may satisfy the notification requirements of section 342L-30, HRS by complying with the permit requirements of sections 11-281-23 through 11-281-31 and 11-281-34 through 11-281-35. [Eff] (Auth: HRS §342L-3) (Imp: HRS §342L-30)

§11-281-23 Permit required. (a) No person shall install or operate an UST or tank system, brought into

use after the effective date of these rules, without first obtaining a permit from the director.

- (b) The director shall approve an application for a permit only if the applicant has submitted sufficient information to the satisfaction of the director that the technical, financial, and other requirements of this chapter are or can be met and the installation and operation of the UST or tank system will be done in a manner that is protective of human health and the environment.
- (c) A permit shall be issued only in accordance with chapter 342L, HRS and this chapter, and it shall be the duty of the permittee to ensure compliance with the law in the installation and operation of the UST or tank system.
- (d) Issuance of a permit shall not relieve any person of the responsibility to comply fully with all applicable laws.
- §11-281-24 Application for a permit. (a) Every application for a permit shall be submitted to the department on forms prescribed in Appendix II entitled "Application for an Underground Storage Tank Permit", dated June, 1999, which is made a part of this chapter and attached at the end of this chapter.
- (b) A permit fee in accordance with section 11-281-35 shall accompany each application for a permit.
- (c) The applicant shall submit sufficient information to enable the director to make a decision on the application. Information submitted shall include but not be limited to the following:
 - (1) General information on involved parties, including the landowner, UST owner, and UST operator; identification of location of the UST or tank system; and basic description of the UST or tank system;
 - (2) Age, size, location, and uses of the UST or

tank system;

- (3) Other information required in Appendix II entitled "Application for an Underground Storage Tank Permit", dated June, 1999, which is made a part of this chapter and attached at the end of this chapter, and
- (4) Other information as the department may require.
- (d) Every application shall be signed by the owner and the operator and shall constitute an acknowledgement that the applicant(s) assumes responsibility for the installation and operation of the UST or tank system in accordance with this chapter and the conditions of the permit, if issued. Each signatory shall be:
 - (1) In the case of a corporation, a principal executive officer of at least the level of vice president, or a duly authorized representative if that representative is responsible for the overall operation of the UST or tank system;
 - (2) In the case of a partnership, a general partner;
 - (3) In the case of a sole proprietorship, the proprietor; or
 - (4) In the case of a county, state, or federal entity, either a principal executive officer, ranking elected official, or other duly authorized employee. [Eff] (Auth: HRS §342L-3) (Imp: HRS §§342L-4, 342L-31)

§11-281-25 Permit (a) Upon approval of an application for a permit to install and operate an UST or tank system, the director shall issue a permit for a term of five years except as noted in subsection (b).

- (b) The owner or operator shall have one year from the issuance of the permit to install an UST or tank system. If the installation is not completed within one year, the permit expires and the owner or operator must apply for a new permit.
- (c) The owner or operator must inform the department at least seven days prior to performing the

actual installation. The information shall include the permit number, name and address of the UST or tank system, the contact person, the contact person's phone number, and date and time of actual installation.

- (d) The owner or operator must notify the department within thirty days after the installation of the UST or tank system. The notification shall be submitted on the form prescribed in Appendix III entitled "Certification of Underground Storage Tank Installation", dated June, 1999, which is made a part of this chapter and attached at the end of this chapter. If information submitted on the form prescribed in Appendix II entitled "Application for an Underground Storage Tank Permit" dated June, 1999, which is made a part of this chapter and attached at the end of this chapter, has changed since the original application, Part IV of Appendix III entitled "Certification of Underground Storage Tank Installation", dated June, 1999, which is made a part of this chapter and attached at the end of this chapter, must be completed and submitted. [Eff] (Auth: HRS §342L-3) (Imp: HRS §§342L-4, 342L-31)
- §11-281-26 Permit renewals. (a) On application, a permit may be renewed for a term of five years.
- (b) A renewal fee in accordance with section 11-281-35 shall accompany each application for renewal of a permit.
- (c) An application for a renewal shall be received by the department at least one hundred and eighty days prior to the expiration of the existing permit and shall be submitted on forms prescribed in Appendix IV entitled "Application for Renewal of an Underground Storage Tank Permit", dated June, 1999, which is made a part of this chapter and attached at the end of this chapter. [Eff] (Auth: HRS §342L-3) (Imp: HRS §342L-4, 342L-31)
- §11-281-27 <u>Action on and timely approval of an application for a permit</u>. (a) The director need not act upon nor consider any incomplete application

for a permit. An application shall be deemed complete only when:

- (1) All required and requested information, including the application form, plans, specifications, and other information required by this subchapter have been submitted in a timely fashion;
- (2) All fees have been paid as prescribed in section 11-281-35; and
- (3) The director determines that the application is complete.
- (b) The director shall approve, approve with conditions, or deny a complete application for a permit to install or operate an UST or tank system or a permit renewal, modification, or transfer, required under this chapter. The director shall notify the applicant of his or her decision, within one hundred and eighty days of receipt of a complete application per subsection (a). Otherwise, the application is deemed approved on the one hundred and eightieth day. [Eff

] (Auth: HRS §342L-3) (Imp: HRS §§342L-4, 342L-31, Act 164, Haw. Sess. Laws)

§ 11-281-28 Permit conditions. The director may impose conditions on a permit that the director deems reasonably necessary to ensure compliance with this chapter and any other relevant state requirement, including conditions relating to equipment, work practice, or operation. Conditions may include, but shall not be limited to, the requirement that devices for measurement or monitoring of regulated substances be installed (including the requirements of section 11-281-25) and maintained and the results reported to the director, all costs and expenses to be borne by the applicant. [Eff] (Auth: HRS § 342L-3) (Imp: HRS §§ 342L-4, 342L-31)

§11-281-29 Modification of permit and notice of change. (a) The director may modify a permit if there is a change that requires a modification to an existing permit. Changes requiring a permit modification shall include but not be limited to:

- (1) Changes in service under subchapter 8;
- (2) Repairs as defined in section 11-281-3;
- (3) Changes in piping;
- (4) Changes in type of regulated substance stored;
- (5) Changes in corrosion protection mechanism; and
- (6) Changes in secondary containment.
- (b) The following changes do not require a permit modification but do require a written notice to the department:
 - (1) Changes in product dispensing method;
 - (2) Changes in financial responsibility mechanism;
 - (3) Changes in leak detection method;
 - (4) Changes in spill and overfill prevention method; and
 - (5) Temporary and permanent closures.
- (c) The holder of a permit shall apply to the department for modification of the permit if plans to renovate or modify an UST or tank system would cause the holder to be out of compliance with the permit.
- (d) An application for modification of a permit shall be made in writing to the department and shall be accompanied by sufficient information on the planned renovation or modification to the UST or tank system to assist the director in making a determination as to whether the application for modification should be denied or granted.
- (e) Applications for a permit modification shall be received by the department no later than thirty days following the occurrence of the event that prompted the application except that applications for change in service must be received by the department at least thirty days before the owner or operator begins the change in service. Applications shall be submitted on forms prescribed in Appendix II entitled "Application for an Underground Storage Tank Permit", dated June, 1999, which is made a part of this chapter and attached at the end of this chapter.
- (f) Written notices under subsection (b) shall be received by the department no later than thirty days following implementation of the change except that notices of permanent closures must be received by the

department at least thirty days before the owner or operator begins the closure under section 11-281-82.

- (g) Owners and operators shall submit a permit application to add USTs or tank systems to an existing permit. If the director approves the addition, the existing permit shall be terminated, and a new permit shall be issued which covers the additional USTs as well as the already-permitted USTs. The term of the new permit shall be for the remaining term of the original permit. [Eff] (Auth: HRS §342L-3) (Imp: HRS §§342L-4, 342L-31)
- §11-281-30 <u>Revocation or suspension of permit</u>. The director may revoke or suspend a permit if the director finds any one of the following:
 - (1) There is a release or threatened release of regulated substances that the department deems to pose an imminent and substantial risk to human health or the environment;
 - (2) The permittee violated a condition of the permit; or
- §11-281-31 Change in owner or operator for a permit. (a) No permit to install, own, or operate an UST or tank system shall be transferable unless approved by the department. Request for approval to transfer a permit from one owner to another owner must be made by the new owner. Request for approval to transfer a permit from one operator to another operator must be made by the owner.
- (b) The transferred permit will be effective for the remaining life of the original permit.
- (c) An application for the transfer shall be received by the department at least 30 days prior to the proposed effective date of the transfer and shall be submitted on forms prescribed in Appendix V entitled "Application for Transfer of an Underground Storage Tank Permit", dated June, 1999, which is made a part of

§11-281-32 <u>Variances allowed</u>. Provisions of chapter 342L, Hawaii Revised Statutes, and the rules in this chapter relating to USTs or tank systems which are more stringent than the federal rules and regulations promulgated by the U.S. Environmental Protection Agency under Subtitle I of the federal Resource Conservation and Recovery Act of 1976, Public Law 94-580, as amended, may be varied by the director in accordance with sections 342L-5 and 342L-6, HRS and this chapter. No variance may be less stringent than the federal requirements. [Eff] (Auth: HRS §342L-3) (Imp: HRS §342L-5)

- §11-281-33 <u>Variance applications</u>. (a) Every application for a variance shall be submitted to the department on forms prescribed in Appendix VI entitled "Application for an Underground Storage Tank Variance", dated June, 1999, which is made a part of this chapter and attached at the end of this chapter.
- (b) A variance fee in accordance with section 11-281-35 shall accompany each application for a variance.
- (c) Every application shall be signed by the owner and operator, and the signature shall be by one of the following:
 - (1) In the case of a corporation, by a principal executive officer of at least the level of vice president, or a duly authorized representative if that representative is responsible for the overall operation of the UST or tank system;
 - (2) In the case of a partnership, by a general partner;
 - (3) In the case of a sole proprietorship, by the proprietor; or
 - (4) In the case of a county, state, or federal entity, by a principal executive officer, ranking elected official, or other duly authorized employee.

§11-281-33

- - §11-281-34 Maintenance of permit or variance.
- (a) Permits and variances, including application documents, shall be maintained at the location of the UST or tank system for which the permit was issued and shall be made available for inspection upon request of any duly authorized representative of the department.

§11-281-35 <u>Fees.</u> (a) Every applicant for a permit or a variance, or applicant for modification or renewal of a permit or variance, or applicant for a transfer of a permit, shall pay the applicable fees as set forth below:

Type of Application	Permit	Variance	
Permit or variance application	\$150	\$200	
Application to modify	\$100	\$150	
Application for renewal	\$ 50	\$100	
Application for transfer	\$ 25	NA	

(b) Fees shall be submitted with the application

and are nonrefundable.

- (c) Fees shall be made payable to the State of Hawaii.

§§11-281-36 to 11-281-40 (Reserved)

SUBCHAPTER 4

GENERAL OPERATING REQUIREMENTS

§11-281-41 Spill and overfill control. (a) Owners and operators must ensure that releases due to spilling or overfilling do not occur. Owners and operators must ensure that the volume available in the UST is greater than the volume of product to be transferred to the UST before the transfer is made and that the transfer operation is monitored constantly to prevent spilling and overfilling.

NOTE: The transfer procedures described in National Fire Protection Association Publication 385 may be helpful in complying with subsection (a). Further guidance on spill and overfill prevention appears in American Petroleum Institute Publication 1621, "Recommended Practice for Bulk Liquid Stock Control at Retail Outlets", and National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code".

- §11-281-42 Operation and maintenance of corrosion protection systems. (a) All owners and operators of steel USTs or tank systems with corrosion protection must comply with the following requirements to ensure that releases due to corrosion are prevented for as long as the UST or tank system is used to store regulated substances:
 - (1) All corrosion protection systems must be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the UST and piping that routinely contain regulated substances and are in contact with the ground.
 - (2) All USTs or tank systems equipped with cathodic protection systems must be inspected for proper operation by a qualified cathodic protection tester in accordance with the following requirements:
 - (A) Frequency. All cathodic protection systems must be tested within six months of installation and at least every three years thereafter; and
 - (B) Inspection criteria. The criteria that are used to determine that cathodic protection is adequate as required by this section must be in accordance with a code of practice developed by a nationally recognized association; and

NOTE: National Association of Corrosion Engineers Standard RP0285-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems" may be helpful in complying with subparagraph (a)(2)(B).

- (3) USTs or tank systems with impressed current cathodic protection systems must also be inspected every sixty days to ensure the equipment is operating properly.
- (b) For USTs or tank systems using cathodic protection, records of the operation of the cathodic

protection must be maintained by the owners and operators in accordance with section 11-281-45 to demonstrate compliance with the performance standards in this section. These records must provide the following:

- (1) The results of the last three inspections required in paragraph (a)(3); and
- (2) The results of testing from the last two inspections required in paragraph (a)(2).

 [Eff] (Auth: HRS §§342L-3, 342L-32) (Imp: 40 C.F.R. §280.31)

 $\S11-281-43$ Compatibility. Owners and operators must use an UST or tank system made of or lined with materials that are compatible with the substance stored in the UST or tank system.

NOTE: Owners and operators storing alcohol blends may find it helpful to use the following codes to comply with the requirements of this section:

- A. American Petroleum Institute Publication 1626, "Storing and Handling Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and Service Stations"; and
- B. American Petroleum Institute Publication 1627, "Storage and Handling of Gasoline-Methanol/Cosolvent Blends at Distribution Terminals and Service Stations". [Eff] (Auth: HRS §§342L-3, 342L-32) (Imp: 40 C.F.R. §280.32)

§11-281-44 <u>Repairs</u>. (a) Owners and operators of USTs or tank systems must ensure that repairs will prevent releases due to structural failure or corrosion for as long as the UST or tank system is used to store regulated substances.

- (b) UST or tank system repairs must meet the following requirements:
 - (1) Repairs to USTs and tank systems must be properly conducted in accordance with a code of practice developed by a nationally recognized association or an independent

testing laboratory.

NOTE: The following codes and standards may be helpful in complying with paragraph (b)(1):

- A. National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code";
- B. American Petroleum Institute Publication 2200, "Repairing Crude Oil, Liquified Petroleum Gas, and Product Pipelines";
- C. American Petroleum Institute Publication 1631, "Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks";
- D. National Leak Prevention Association Standard 631, "Entry, Cleaning, Interior Inspection, Repair and Lining of Underground Storage Tanks".
- (2) Repairs to fiberglass-reinforced plastic USTs may be made by the manufacturer's authorized representatives or in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory.
- (3) Metal pipe sections and fittings that have released product as a result of corrosion or other damage must be replaced. Fiberglass pipes and fittings may be repaired in accordance with the manufacturer's specifications.
- (4) Repaired USTs and piping must be tightness tested in accordance with sections 11-281-52(3) and 11-281-53(2) within thirty days following the date of the completion of the repair, except as provided in subparagraphs (b)(4)(A) to (b)(4)(B):
 - (A) The repaired UST is internally inspected in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory; or
 - (B) The repaired portion of the UST or tank

system is monitored monthly for releases in accordance with a method specified in section 11-281-52(4) through (8).

- (5) Within six months following the repair of any cathodically protected UST or tank system, the cathodic protection system must be tested in accordance with sections 11-281-42(a)(2) and (3) to ensure that it is operating properly.
- (c) UST or tank system owners and operators must maintain records of each repair for the remaining operating life of the UST or tank system to demonstrate compliance with the requirements of this section. [Eff] (Auth: HRS §§342L-3, 342L-32) (Imp: 40 C.F.R. §280.33)
- §11-281-45 Reporting and recordkeeping. (a) Owners and operators of USTs or tank systems must cooperate fully with inspections, monitoring, and testing conducted by the department, as well as requests by the department for document submission, monitoring and testing by owners or operators in accordance with chapter 342L, Hawaii Revised Statutes.
- (b) Owners and operators must submit the following information to the department:
 - (1) Notifications for all USTs or tank systems as required by section 342L-30, HRS and sections 11-281-21 and 11-281-22. When appropriate, notification shall include certification of installation for USTs or tank systems required under section 11-281-16;
 - (2) Reports of all releases including suspected releases as required in section 11-281-61, spills and overfills as required in section 11-281-64, and confirmed releases as required in section 11-281-72;
 - (3) Release response actions planned or taken including immediate response actions as required in section 11-281-72, posting of signs as required in section 11-281-73, initial abatement measures and site assessment as required in section 11-281-74, initial site characterization as required in

section 11-281-75, free product removal as required in section 11-281-76, soil and ground water investigations as required in section 11-281-77, site cleanup as required in section 11-281-78, notification of confirmed release as required in section 11-281-78.1, corrective action plan as required in section 11-281-79, documentation of public participation as required in section 11-281-80, and ninety-day report and quarterly progress reports as required in section 11-281-80.1; and

- (4) Notification before permanent closure or change-in-service of an UST or tank system as required in section 11-281-82.
- (c) Owners and operators must keep and maintain records of the following information for the remaining operating life of the UST or tank system unless otherwise specified:
 - (1) A corrosion expert's analysis of site corrosion potential if corrosion protection equipment is not used as allowed for under sections 11-281-12 and 11-281-13;
 - (2) Documentation of operation of corrosion protection equipment as required in section 11-281-42;
 - (3) Documentation of UST or tank system repairs as required in section 11-281-44(c);
 - (4) Record of compliance with release detection requirements as specified and according to the timeframes in section 11-281-54;
 - (5) Record of compliance with change-in-service or permanent closure requirements, including results of the site assessment, under subchapter 8, for at least three years after completion of permanent closure or change-inservice;
 - (6) Permits or variances or both, including all documentation, as specified in section 11-281-34(a); and
 - (7) Proof of current financial assurance mechanisms used to demonstrate financial responsibility as required by subchapter 9.
 - (d) Owners and operators must keep records at the

following locations:

- (1) All documents, except the permanent closure records specified in paragraph (c)(5), shall be made immediately available for inspection by the department by:
 - (A) Being maintained at the UST site; or
 - (B) Another method as approved by the director.
- (2) The permanent closure records specified in paragraph (c)(5) may be maintained at a readily available alternative site and shall be provided for inspection to the department upon request; or

§§11-281-46 to 11-281-50 (Reserved)

SUBCHAPTER 5

RELEASE DETECTION

- §11-281-51 <u>General requirements for all</u> <u>underground storage tanks or tank systems</u>. (a) Owners and operators of new and existing USTs or tank systems must provide a method, or combination of methods, of release detection that:
 - (1) Can detect a release from any portion of the UST and the connected underground piping that routinely contains product;
 - (2) Is installed, calibrated, operated, and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability either every twelve months or in a timeframe specified by the manufacturer, whichever is more frequent; and

- Meets the performance requirements in section 11-281-52 or section 11-281-53. Owners and operators must also provide the department with the equipment manufacturer's or installer's written documentation of any performance claims and their manner of determination. In addition, methods used after December 22, 1990, except for inventory control or methods permanently installed prior to that date, must be capable of detecting the leak rate or quantity specified for that method in section 11-281-52 (2), (3), or (4) or section 11-281-53(1) or (2)with a minimum probability of detection (Pd) of 0.95 and a maximum probability of false alarm (Pfa) of 0.05.
- (b) When a release detection method operated in accordance with the performance standards in section 11-281-52 and section 11-281-53 indicates a release may have occurred, owners and operators must notify the department in accordance with subchapter 6.
- (c) Owners and operators of all USTs or tank systems must comply with the release detection requirements of this subchapter.
- (d) Owners and operators of any UST or tank system that cannot apply a method of release detection that complies with the requirements of this subchapter must comply with change-in-service or closure procedures in subchapter 8.
- (e) Owners and operators of USTs or tank systems must provide release detection for USTs and piping as follows:
 - (1) Tanks. USTs must be monitored at least every thirty days for releases using one of the methods listed in sections 11-281-52(4) through (8) except that:
 - (A) USTs or tank systems that meet the performance standards in subchapter 2, and the monthly inventory control requirements in section 11-281-52(1) or (2), may use tank tightness testing (conducted in accordance with section 11-281-52(3)) at least:
 - (i) Every five years until December 22,

1998;

- (ii) Until ten years after the tank is installed; or
- (iii) For tank or tank systems that meet
 the upgrading requirements of
 sections 11-281-18(b), (c), and
 (d), until ten years after the tank
 is upgraded under section 11-281 18(b),

whichever is latest.

(B) USTs or tank systems that do not meet the performance standards in subchapter 2 may use monthly inventory controls (conducted in accordance with section 11-281-52(1) or (2)) and tank tightness testing (conducted every twelve months and in accordance with section 11-281-52(3)) until December 22, 1998, when the tank must be upgraded under section 11-281-18 or permanently closed under section 11-281-82.

Hazardous substance USTs or tank systems installed after December 22, 1988, must meet the requirements of section 11-281-17(a)(3); and

- (2) Piping. Underground piping that routinely contains regulated substances must be monitored for releases in a manner that meets one of the following requirements:
 - (A) Pressurized piping. Underground piping that conveys regulated substances under pressure must:
 - (i) Be equipped with an automatic line leak detector in accordance with section 11-281-53(1); and
 - (ii) Have a line tightness test conducted every twelve months and in accordance with section 11-281-53(2) or have monthly monitoring conducted in accordance with section 11-281-53(3).
 - (B) Suction piping. Underground piping that conveys regulated substances under suction must either have a line

tightness test conducted at least every three years and in accordance with section 11-281-53(2), or use a monthly monitoring method conducted in accordance with section 11-281-53(3). No release detection is required for suction piping that is designed and constructed to meet the following standards:

- (i) The below-grade piping operates at less than atmospheric pressure;
- (ii) The below-grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released;
- (iii) Only one check valve is included in each suction line;
 - (iv) The check valve is located directly
 below and as close as practical to
 the suction pump; and
 - (v) A method is provided that allows compliance with clauses (e)(2)(B)(ii) through (iv) to be readily determined.

Hazardous substance USTs or tank systems installed after December 22, 1988, must meet the requirements of only subparagraph (A)(i) and section 11-281-17(d). [Eff

] (Auth: HRS §§342L-3, 342L-33) (Imp: 40 C.F.R. §§280.40 and 280.41)

§11-281-52 <u>Methods of release detection for</u>
tanks. Each method of release detection for tanks
used to meet the requirements of section 11-281-51(e)
must be conducted in accordance with the following:

- (1) Inventory control. Product inventory control (or another test of equivalent performance) must be conducted monthly to detect a release of at least one per cent of flow-through plus one hundred thirty gallons on a monthly basis in the following manner:
 - (A) Inventory volume measurements for regulated substance inputs,

- withdrawals, and the amount still remaining in the tank are recorded each operating day;
- (B) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch;
- (C) If a manual measuring device is used (e.g. a gauge stick), the measurements must be made through a drop tube and one that extends to within one foot of the tank bottom. Level measurements shall be to the nearest one-eighth of an inch;
- (D) The regulated substance inputs are reconciled with delivery receipts by measurement of the tank inventory volume before and after delivery;
- (E) Deliveries are made through a drop tube that extends to within one foot of the tank bottom;
- (F) Product dispensing is metered and recorded within the state standards for meter calibration; or for non-retail enterprises, calibrated to an accuracy of six cubic inches for every five gallons of product withdrawn (in both cases, the meter must be calibrated every twelve months); and
- (G) The measurement of any water level in the bottom of the tank is made to the nearest one-eighth of an inch at least once a month.

NOTE: Practices described in the American Petroleum Institute Publication 1621, "Recommended Practice for Bulk Liquid Stock Control at Retail Outlets," may be helpful where applicable, in meeting the requirements of paragraph (1).

- (2) Manual tank gauging. Manual tank gauging must meet the following requirements:
 - (A) Tank liquid level measurements are taken at the beginning and ending of a period

- of at least 36 hours during which no liquid is added to or removed from the tank (of the period defined in the table below for the size of the tank);
- (B) If a manual measuring device is used (e.g. a gauge stick), the measurements must be made through a drop tube that extends to within one foot of the tank bottom. Level measurements shall be to the nearest one-eighth of an inch and shall be based on the average of two consecutive gauge stick readings at both the beginning and ending of the period;
- (C) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch;
- (D) A leak is suspected and subject to the requirements of subchapter 6 if the variation between beginning and ending measurements exceeds the weekly or monthly standards in the following table:

Nominal Tank Capacity (in gallons)	Tank Dimensions	Weekly Standard (in gallons)	Monthly Standard (in gallons)	Minimum Test Duration	
550	N/A	10	5	36 hrs.	
551 - 1,000	N/A	13	7	36 hrs. *	
1,000	64" dia. X 73" I.	9	4	44 hrs.	
1,000	48" dia. X 128" I.	12	6	58 hrs.	
1,001 - 2,000	N/A	26	13	36 hrs. *	
* Must be combined with tank tightness testing					

(E) Measurements shall be conducted each week of the month. If the month has five measurement periods, the weekly test with the smallest discrepancy shall

- not be used in calculating the average. (F) Tanks of 1,000 gallons or less nominal capacity may use manual tank gauging as the sole method of release detection when using the standards in the above table except that where an asterisk is indicated tank tightness testing is required. Tanks of 551 gallons to 2,000 gallons may use manual tank gauging in place of inventory control in section 11-281-52(2) when using the standards in the above table that indicate with an asterisk that tank tightness testing is also required. Tanks of greater than 2,000 gallons nominal capacity may not use manual tank gauging to meet the requirements of this subchapter.
- (3) Tank tightness testing. Tank tightness testing (or another test of equivalent performance) must be capable of detecting a 0.1 gallon per hour leak rate from any portion of the tank that routinely contains product while accounting for the effects of thermal expansion or contraction of the product, vapor pockets, tank deformation, evaporation or condensation, and the location of the water table at the time of the tank tightness test.
- (4) Automatic tank gauging. Equipment for automatic tank gauging that tests for the loss of product and conducts inventory control must meet the following requirements:
 - (A) The automatic product level monitor test can detect a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains product; and
 - (B) Inventory control (or another test of equivalent performance) is conducted in accordance with the requirements of section 11-281-52(1). Inventory control is required only when the automatic tank gauging is not third party certified for detecting a release of 0.2 gallons per hour with a ninety-five per cent

- probability of detection and five per cent probability of false alarm and was installed prior to December 22, 1990.
- (5) Vapor monitoring. Testing or monitoring for vapors within the soil gas of the excavation zone must meet the following requirements:
 - (A) The materials used as backfill are sufficiently porous (e.g., gravel, sand, crushed rock) to readily allow diffusion of vapors from releases into the excavation area;
 - (B) The stored regulated substance, or a tracer compound placed in the tank system, is sufficiently volatile (e.g., gasoline) to result in a vapor level that is detectable by the monitoring devices located in the excavation zone in the event of a release from the tank;
 - (C) The measurement of vapors by the monitoring device is not rendered inoperative by the ground water, rainfall, soil moisture, or other known interferences so that a release could go undetected for more than thirty days;
 - (D) The level of background contamination in the excavation zone will not interfere with the method used to detect releases from the tank;
 - (E) The vapor monitors are designed and operated to detect any significant increase in concentration above background of the regulated substance stored in the tank system, a component or components of that substance, or a tracer compound placed in the tank system;
 - (F) In the tank system excavation zone, the site is assessed with written documentation to ensure compliance with the requirements in subparagraphs (5)(A) through (D) and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the

- tank that routinely contains product; and
- (G) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.
- (6) Ground water monitoring. Testing or monitoring for liquids on the ground water must meet the following requirements:
 - (A) The regulated substance stored is immiscible in water and has a specific gravity of less than one;
 - (B) Ground water is never more than twenty feet from the ground surface and the hydraulic conductivity of the soil(s) between the UST or tank system and the monitoring wells or devices is not less than 0.01 cm/sec (e.g., the soil should consist of gravel, coarse to medium sands, coarse silts or other permeable materials);
 - (C) The slotted portion of the monitoring well casing must be designed to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substance on the water table into the well under both high and low ground water conditions;
 - (D) Monitoring wells shall be sealed from the ground surface to the top of the filter-pack;
 - (E) Monitoring wells or devices intercept the excavation zone or are as close to it as is technically feasible;
 - (F) The continuous monitoring devices or manual methods used can detect the presence of at least one-eighth of one inch of free product on top of the ground water in the monitoring wells;
 - (G) Within and immediately below the tank system excavation zone, the site is assessed with written documentation to ensure compliance with the requirements in subparagraphs (6)(A) through (E) and to establish the number and positioning

- of monitoring wells or devices that will detect releases from any portion of the tank that routinely contains product; and
- (H) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.
- (7) Interstitial monitoring. Interstitial monitoring between the tank system and a secondary barrier immediately around or beneath it may be used, but only if the monitoring system is designed, constructed and installed to detect a leak from any portion of the tank that routinely contains product and also meets one of the following requirements:
 - (A) For double-walled tank systems, the sampling or testing method can detect a release through the inner wall in any portion of the tank that routinely contains product.

NOTE: The provisions outlined in the Steel Tank Institute's "Standard for Dual Wall Underground Steel Storage Tanks" may be helpful for aspects of the design and construction of underground steel double-walled tanks.

- (B) For tanks with an internally fitted liner, an automated device can detect a release between the inner wall of the tank and the liner, and the liner is compatible with the substance stored.
- (8) Other methods. Any other type of release detection method, or combination of methods, can be used if:
 - (A) It can detect a 0.2 gallon per hour leak rate or a release of one hundred fifty gallons within a month with a probability of detection of 0.95 and a probability of false alarm of 0.05;
 - (B) The owners and operators demonstrate to the department that the method can

detect a release as effectively as any of the methods allowed in paragraphs (3) through (7), and the department approves the method. In comparing methods, the department shall consider the size of release that the method can detect and the frequency and reliability with which it can be detected. If the method is approved, owners and operators must comply with any conditions imposed by the department on its use to ensure the protection of human health and the environment; or

- (C) For hazardous substance tanks, the
 owners and operators:
 - (i) Provide information to the department on effective corrective action technologies, health risks, and chemical and physical properties of the stored substance, and the characteristics of the UST site; and

§11-281-53 Methods of release detection for piping. Each method of release detection for piping used to meet the requirements of section 11-281-51(e) must be conducted in accordance with the following:

(1) Automatic line leak detectors. Methods which alert the operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping may be used only if they detect leaks of three gallons per hour at ten pounds per square inch line pressure within one hour. A test every twelve months of the operation of the leak detector must be conducted in accordance with the manufacturer's requirements.

- (2) Line tightness testing. A periodic test of piping may be conducted only if it can detect a 0.1 gallon per hour leak rate at one and one-half times the operating pressure.
- (3) Applicable tank methods. Any of the methods in sections 11-281-52(5) through (8) may be used if they are designed to detect a release from any portion of the underground piping that routinely contains regulated substances.

 [Eff] (Auth: HRS §§342L-3, 342L-33) (Imp: 40 C.F.R. §280.44)
- §11-281-54 Release detection recordkeeping. (a) All owners and operators of USTs or tank systems must keep and maintain records in accordance with section 11-281-45 demonstrating compliance with all applicable requirements of this subchapter.
- (b) These records must be kept at least one year, unless otherwise specified, and shall include but is not limited to the following:
 - (1) All written performance claims pertaining to any release detection system used, and the manner in which these claims have been justified or tested by the equipment manufacturer or installer, must be kept and maintained for the lifetime of the equipment;
 - (2) All results of any sampling, testing, or monitoring;
 - (3) Written documentation of the last twelve months of all calibration, maintenance (including testing required by section 11-281-51(a)(2)), and repair of release detection equipment permanently located onsite. Any schedules of required calibration and maintenance provided by the release detection equipment manufacturer must be retained for the lifetime of the equipment;
 - (4) All records of the last twelve months of release detection, the most recent tank and line tightness tests, and test results of the automatic line leak detectors, except tank and line tightness test records must be maintained until the next test. These

- records shall include all of the testing data, not just the pass or fail determination;
- (5) Operating manuals for all currently installed leak detection equipment for the remaining operating life of the UST or tank system; and
- (6) Documentation of the site assessment, as required by sections 11-281-52(5)(F) and (6)(G), for three years after change-inservice or permanent closure of the UST or tank system. [Eff] (Auth: HRS §§342L-3, 342L-33) (Imp: 40 C.F.R. §280.45)

§§11-281-55 to 11-281-60 (Reserved)

SUBCHAPTER 6

RELEASE REPORTING, INVESTIGATION, AND CONFIRMATION

- §11-281-61 Reporting of suspected releases. Owners and operators of USTs or tank systems must notify the department within twenty-four hours, and follow the procedures in section 11-281-63, for any of the following conditions:
 - (1) The discovery by any person of evidence of regulated substances which may have been released at the UST or tank system site or in the surrounding area (such as the presence of free product or vapors in soils, basements, sewer and utility lines, and nearby surface water);
 - (2) Unusual UST or tank system operating conditions observed or experienced by owners and operators (such as the erratic behavior of product dispensing equipment, the sudden loss of product from the UST or tank system, or an unexplained presence of water in the tank), unless a component of the UST or tank system is found to be defective but not leaking, and is immediately repaired or replaced; or

- (3) Monitoring results from a release detection method required under section 11-281-51(e) indicate a release may have occurred unless:
 - (A) The monitoring device is found to be defective, and is immediately repaired, recalibrated, or replaced, and additional monitoring results do not confirm the initial result; or
 - (B) In the case of inventory control monthly reconciliation, two consecutive months of data do not confirm the initial result. [Eff] (Auth: HRS §§342L-3, 342L-34) (Imp: 40 C.F.R. §280.50)

§11-281-63 Release investigation and confirmation steps.

(a) Unless release response action is initiated in accordance with subchapter 7, owners and operators must immediately investigate and confirm all suspected releases of regulated substances that require reporting under section 11-281-61 within seven days following the discovery of the suspected release, unless a written request for extension of time is granted by the director.

- (b) Investigations and confirmations required in subsection (a) must use the following steps:
 - (1) System test. Owners and operators must conduct tests (according to the requirements for tightness testing in sections 11-281-

- 52(3) and 11-281-53(2)) to determine whether a leak exists in that portion of the UST that routinely contains product, or the attached delivery piping, or both.
- (A) Owners and operators must repair, replace, or upgrade the UST or tank system, and begin release response action in accordance with subchapter 7 if the test results for the UST system, UST, or delivery piping indicate that a leak exists.
- (B) Further investigation is not required if the test results for the UST system, UST, and delivery piping do not indicate that a leak exists and if the discovery of environmental contamination subject to the reporting requirements of section 11-281-61(1) is not the basis for suspecting a release.
- (C) Owners and operators must conduct a site assessment as described in paragraph (b)(2) if the test results for the UST system, UST, and delivery piping do not indicate that a leak exists but the discovery of environmental contamination subject to the reporting requirements of section 11-281-61(1) is the basis for suspecting a release.
- (2) Site assessment. Owners and operators must measure for the presence of a release where contamination is most likely to be present at the UST or tank system site. In selecting sample types, sample locations, and measurement methods, owners and operators must consider the nature of the stored substance, the type of initial alarm or cause for suspicion, the types of backfill and surrounding soil, the depth and flow of ground water, and other factors as appropriate for identifying the presence and source of a release.
 - (A) If the test results for the excavation zone, or the UST or tank system site, indicate that a release has occurred,

- owners and operators must begin release response action in accordance with subchapter 7;
- (B) If the test results for the excavation zone, or the UST or tank system site, do not indicate that a release has occurred, further investigation is not required.
- (c) If it is determined that a release has not occurred, owners and operators must report the results of the investigation in writing to the department within thirty days following discovery of the suspected release. The report shall include, but not be limited to, results of the tests pursuant to subsection (b) as well as performance claims pursuant to section 11-281-51(a)(3). [Eff] (Auth: HRS §§342L-3, 342L-34) (Imp: 40 C.F.R. §280.52)
- §11-281-64 Reporting and cleanup of spills and overfills. (a) Owners and operators of USTs or tank systems must contain and immediately clean up all spills and overfills in a manner which is protective of human health and the environment as set forth in section 11-281-78.
- (b) Owners and operators must notify the department within twenty-four hours and begin release response action in accordance with subchapter 7 in the following cases:
 - (1) Spill or overfill of petroleum that results in a release to the environment that exceeds twenty-five gallons or that causes a sheen on nearby surface waters; and
 - (2) Spill or overfill of a hazardous substance that results in a release to the environment that equals or exceeds its reportable quantity as determined in compliance with section 11-451-6 (determination of reportable quantities).
- (c) If the owners and operators cannot, within twenty-four hours, contain and complete the cleanup of a spill or overfill of petroleum that is less than twenty-five gallons, or a spill or overfill of a hazardous substance that is less than the reportable

quantity, then the owners and operators must immediately notify the department of the incident and continue cleaning up the spill or overfill. Owners and operators must also complete and submit to the department a written report of the actions taken in response to the spill or overfill within ninety days of the spill or overfill. [Eff] (Auth: HRS §§342L-3, 342L-34) (Imp: 40 C.F.R. §280.53)

§§11-281-65 to 11-281-70 (Reserved)

SUBCHAPTER 7

RELEASE RESPONSE ACTION

- §11-281-71 <u>General</u>. (a) Owners and operators of USTs or tank systems must comply with the requirements of this subchapter in responding to releases of regulated substances from USTs or tank systems.
- (b) For purposes of complying with this subchapter, the date of confirmation of a release shall be as follows:
 - (1) For releases confirmed on or after the effective date of these rules, the date of confirmation shall be the date the release is confirmed in accordance with section 11-281-63.
- §11-281-72 <u>Immediate response actions</u>. (a) Upon confirmation of a release in accordance with section 11-281-63, or after a release from the UST or tank system is identified in any other manner, owners and operators must perform the following immediate response actions within twenty-four hours following the confirmation:

- (1) Report the release to the department (e.g., by telephone or fax);
- (2) Identify and mitigate any safety hazards (such as fire, explosion, and vapor hazards) posed by the release of the regulated substance; and
- (3) Take necessary actions to prevent any further release of the regulated substance into the environment, including removal of as much of the regulated substance from the UST or tank system as possible; and
- (4) Take necessary action to minimize the spread of contamination.

§11-281-73 Posting of signs. (a) If the department determines that posting of signs is appropriate, owners and operators shall post signs around the perimeter of the site informing passersby of the potential hazards. In this instance, "site" means an area where contamination poses an immediate health risk or an area where contaminated media is exposed to the surface.

- (b) Signs shall be placed at each entrance to the site and at other locations in sufficient numbers to be seen from any approach to the site.
- (c) Signs shall be legible and readable from a distance of at least twenty-five feet. The sign legend shall read, "Caution Petroleum/Hazardous Substance Contamination Unauthorized Personnel Keep Out". Other sign legends may be used if the legend on the sign indicates that only authorized personnel are allowed to enter the site and that entry onto the site may be dangerous. A contact person and telephone

number shall be listed on the sign.

- (d) The sign may be removed upon determination by the department that no further release response action is necessary or that posting of signs is no longer appropriate. [Eff](Auth: HRS §§342L-3, 342L-35) (Imp: HRS §342L-35)
- §11-281-74 <u>Initial abatement measures and site</u> assessment. (a) After a release has been confirmed, owners and operators must perform the following release abatement and control measures:
 - (1) Continue to remove as much of the regulated substance from the UST or tank system as is necessary to prevent further release to the environment;
 - (2) Visually inspect the area around the UST or tank system for evidence of any aboveground releases or exposed below ground releases and continue to take necessary actions to minimize the spread of contamination and to prevent further migration of the released substance into surrounding soils, air, surface water, and ground water;
 - (3) Continue to monitor and mitigate any safety hazards (such as fire, explosion, and vapors) posed by the release that have migrated from the UST or tank system excavation zone and entered into subsurface structures (such as sewers or basements);
 - (4) Remedy hazards (such as dust and vapors and the potential for leachate generation) posed by contaminated soils and debris that are excavated or exposed as a result of release confirmation activities undertaken pursuant to subchapter 6 or release response actions undertaken pursuant to this subchapter;
 - (5) Investigate to determine the possible presence of free product, and begin free product removal in accordance with section 11-281-76;
 - (6) Remove or remediate contaminated soil at the site to the extent necessary to prevent the spread of free product;

- (7) Conduct an assessment of the release by measuring for the presence of a release where contamination is most likely to be present at the UST or tank system site, unless the presence and source of the release have been confirmed in accordance with the site assessment required by section 11-281-63(b)(2) or the site assessment required for change-in-service or permanent UST or tank system closures in section 11-281-83. selecting sample types, sample locations, and measurement methods, owners and operators must consider the nature of the stored substance, the types of backfill and surrounding soil, depth and flow of ground water, and other factors as appropriate for identifying the presence and source of a release; and
- (8) If any of the remedies in this section include treatment or disposal of contaminated soils, owners or operators must comply with all applicable local, state and federal requirements.
- (b) Initial site assessment and abatement shall be completed within ninety days of confirmation of a release or sooner if directed by the department. [Eff] (Auth: HRS §§342L-3, 342L-35) (Imp: 40 C.F.R. §280.62)
- §11-281-75 <u>Initial site characterization</u>. (a) While carrying out release response actions under this subchapter, owners and operators must concurrently assemble necessary information about the characteristics of the site and the nature of the release in order to adequately assess the impact or potential impact the release has on human health and the environment.
- (b) The information assembled pursuant to subsection (a) must include, but is not limited to, the following:
 - (1) Data on the nature and estimated quantity of release;
 - (2) Data from available sources or site

investigations or both concerning the following factors: surrounding populations, water quality, use and approximate locations of wells potentially affected by the release, subsurface soil conditions, locations of subsurface sewers, climatological data, and land use;

- (3) Results of the site assessment required under section 11-281-74(a)(7);
- (4) Results of the free product investigations required under section 11-281-74(a)(5) to be used by the owners and operators to determine whether free product must be recovered under section 11-281-76; and
- (5) Any other information, as appropriate, which may relate to the impact of the release on human health and the environment.

§11-281-76 Free product removal. (a) At sites where investigations indicate the presence of free product, owners and operators must remove free product to the maximum extent practicable, as determined by the department, while continuing, as necessary, actions initiated under sections 11-281-62 and 11-281-63, or preparing for actions required under sections 11-281-71 through 11-281-78. In meeting the requirement of this section, owners and operators must:

- (1) Conduct free product removal in a manner that minimizes the spread of contamination into previously uncontaminated zones by using recovery and disposal techniques appropriate to the hydrogeologic conditions at the site, and that properly treats, discharges or disposes of recovery byproducts in compliance with applicable local, state, and federal regulations;
- (2) Use abatement of free product migration as a minimum objective for the design of the free

- product removal system;
- (3) Handle any flammable products in a safe and competent manner to prevent fires or explosions; and
- (4) Prepare and submit to the department, included in the first quarter progress report required pursuant to section 11-281-80.1(a), information that provides at least the following:
 - (A) The name of the person(s) responsible for implementing the free product removal measures;
 - (B) The estimated quantity, type, and thickness of free product observed or measured in wells, boreholes, and excavations;
 - (C) The type of free product recovery system used;
 - (D) Whether any discharge will take place on-site or off-site during the recovery operation and where this discharge will be located;
 - (E) The type of treatment applied to, and the effluent quality expected from, any discharge;
 - (F) The steps that have been or are being taken to remove free product including steps to obtain any necessary permits for any discharges;
 - (G) The disposition of the recovered free product; and
 - (H) Schedule for completion of free product removal.
- (b) Owners and operators shall initiate free product removal as soon as practicable but no later than ninety days following confirmation of a release or sooner if directed by the department. [Eff

] (Auth: HRS §§342L-3, 342L-35) (Imp: 40 C.F.R. §280.281)

§11-281-77 Investigation of soil and ground water contamination. (a) For releases confirmed in accordance with section 11-281-63, owners and operators

must determine the extent and location of the soil contaminated by the release and the presence and concentrations of dissolved product contamination in the ground water and must conduct investigations of the release, the release site, and the surrounding area possibly affected by the release.

- §11-281-78 <u>Site cleanup criteria</u>. (a) For releases confirmed in accordance with section 11-281-63, owners and operators must remediate soil, water, and materials contaminated by releases from USTs or tank systems in a manner which is protective of human health and the environment and achieves cleanup as described in subsection (b).
- (b) Owners and operators must remediate contaminated soil and water at the site to residual levels which meet one of the following criteria:
 - (1) Default tier 1 action levels as presented in Table 1-la (Tier 1 Action Levels for Soil and Groundwater: Rainfall ≤ 200cm/yr), section 11-281-80.1 and in Table 1-lb (Tier 1 Action Levels for Soil and Groundwater: Rainfall > 200cm/yr), section 11-281-80.1; or
 - (2) Site-specific action levels as approved by the department. Site-specific action levels must take into account the following factors:
 - (A) For systemic toxicants, acceptable levels shall represent concentration levels to which the human population, including sensitive subgroups, may be exposed without adverse effect during a lifetime or part of a lifetime, incorporating an adequate margin of safety;
 - (B) For known or suspected carcinogens, acceptable levels are generally concentration levels that represent an excess upper bound lifetime cancer risk

to an individual of between 10⁻⁴ and 10⁻⁶ using information on the relationship between dose and response. The 10⁻⁶ excess risk level shall be used as the point of departure for determining acceptable levels for alternatives when chemical specific state or federal requirements are not available or are not sufficiently protective because of the presence of multiple contaminants at the site or multiple pathways of exposure;

- (C) Impacts to ecological receptors; and
- (D) Other applicable requirements, if available;

NOTE: Owners and operators should consult with the department on how the standards in section 11-281-78(b) can be met. Owners and operators should also consult the department for forms to be used that will be helpful in expediting the department's review of the owners' and operators' reports.

- (c) The department may require the owners and operators to modify cleanup activities being undertaken at a site if the department determines that the activities are not being carried out in accordance with this subchapter, or are not achieving cleanup levels which are protective of human health and the environment. The department may impose modifications to cleanup activities by written notice to the owners and operators, and the owners and operators must implement necessary changes to the cleanup activities in response to the department's notice by a time schedule established by the department.

§11-281-78.1 Notification of confirmed releases.
(a) Within ninety days following confirmation of

a release pursuant to section 11-281-63, the owner and operator shall notify those members of the public directly affected by a release and the proposed response to the release. Members of the public directly affected by the release shall include:

- (1) Persons who own, hold a lease for, or have easements at, any property on which the regulated substance released from the UST was discovered; and
- (2) Other persons as identified by the director.
- (b) The owner and operator shall send a letter to all members of the public directly affected by the release. Model language for the letter shall be provided by the department and shall include at least the following information:
 - (1) Name and address of the UST or UST system;
 - (2) Statement that a release of regulated substance has been confirmed at the UST or UST system;
 - (3) Name of a contact person at the department; and
 - (4) Reference to an attached factsheet pursuant to subsection (c).
- (c) The letter to the members of the public directly affected by the release shall include a factsheet which contains the following information:
 - (1) Name and address of the UST or UST system;
 - (2) Name and address of the owner and operator of the UST or UST system;
 - (3) Date of the confirmed release;
 - (4) Nature and extent of the confirmed release;
 - (5) Summary of measures taken to assess the release and extent of contamination; and
 - (6) Summary of the proposed response to the release.

The factsheet shall be updated on a quarterly basis and sent to all members of the public directly affected by the release. If additional members of the public directly affected by the release are identified in the course of release response actions, then the owner and operator shall provide those persons with all previous and future letters and factsheets.

(d) The owner and operator shall include in the quarterly report required pursuant to section 11-281-

- 80.1 the following information:
 - (1) Copy of the letter pursuant to subsection
 (b);
 - (2) List of the members of the public directly affected by the release and to whom the letter was sent; and

§11-281-79 Corrective action plan. (a) The department may require that the owner and operator submit a written corrective action plan for responding to a release, if one or more of the following minimum threshold criteria is met:

- (1) Actual or probable release to ground water which is a drinking water supply;
- (2) Actual or probable release to surface water which is a drinking water supply;
- (3) Actual or probable release to air that poses a threat to public health;
- (4) Actual or probable release to and extensive contamination of soil that poses a direct contact hazard due to uncontrolled access;
- (5) Actual or probable existence of uncontrolled regulated substances that pose a direct contact hazard due to uncontrolled access;
- (6) Actual or probable adverse impact to natural resources;
- (7) Actual or probable imminent danger of fire or explosion; or
- (8) A determination by the director that a release poses a substantial endangerment to public health or welfare, the environment, or natural resources.
- (b) Such plans must be submitted to the department within thirty days of the department's request unless an extension of time is granted by the department.
- (c) Owners and operators must make necessary modifications to the corrective action plan when directed to do so by the department.

(d) Corrective action plans which are required to be submitted to the department shall be subject to the review and discretionary approval of the department in accordance with the procedures set forth in this section.

NOTE: Forms such as those in the $\overline{\text{TGM}}$ may be helpful in fulfilling the requirements of this section.

- (e) The department will approve written corrective action plans only after owners and operators demonstrate to the satisfaction of the department that implementation of the plan will be safe and will adequately protect human health and the environment in accordance with section 11-281-78. In making this determination, the department will consider the following factors:
 - (1) The physical and chemical characteristics of the regulated substance, including its toxicity, persistence, and potential for migration;
 - (2) The hydrogeologic characteristics of the facility and the surrounding area;
 - (3) The proximity, quality, and current and future uses of nearby surface water and ground water;
 - (4) The potential effects of residual contamination on nearby surface water and ground water;
 - (5) An exposure assessment; and
 - (6) Any other information assembled in compliance with this subchapter.
- (f) The public participation procedures set forth in section 11-281-80 apply to all corrective action plans submitted under this section.
- (g) Upon approval of a corrective action plan, owners and operators must implement the plan, including any modifications to the plan made by the department.
- (h) Owners and operators must monitor, evaluate, and report quarterly to the department the results of implementing the corrective action plan pursuant to this section and section 11-281-80.1.
- (i) Owners and operators who have been requested by the department to submit a corrective action plan

may, in the interest of minimizing environmental contamination and promoting effective and timely cleanups, begin cleanup of contaminated soils, water, and materials before the plan is approved by the department provided that they:

- (1) Notify the department of their intention to begin cleanup;
- (2) Ensure that cleanup measures undertaken are consistent with the cleanup actions required pursuant to section 11-281-78;
- (3) Comply with any conditions imposed by the department, including halting cleanup or mitigating adverse consequences from cleanup activities; and
- §11-281-80 <u>Public participation for corrective</u> <u>action plans</u>. (a) The department shall conduct public participation activities as outlined in subsections (e) through (j) where:
 - (1) A corrective action plan required pursuant to section 11-281-79(a) has been submitted and the department has made a tentative decision concerning the proposed plan; or
 - (2) Implementation of any previously approved corrective action plan has not achieved the cleanup levels established in the plan and termination of the plan is under consideration by the department.
- (b) Costs for all public participation activities described in subsections (e) through (j) shall be borne by the owner and operator of the UST or UST system, including the costs of making copies of materials to the public under subsection (h).
- (c) The department will provide notice to the public of the release and the applicable response by means designed to reach those members of the public directly affected by the release and the cleanup actions planned.
 - (d) Members of the public directly affected by

the release shall include the following:

- (1) Those individuals defined in sections 11-281-78.1(a); and
- (2) The general public.
- (e) Notice to those individuals defined in paragraph (d)(1) shall be in the form of a letter from the department and shall include at least the following information:
 - (1) Name and address of the UST or UST system;
 - (2) Name and address of the owner and operator of the UST or UST system;
 - (3) Summary of the release information and the proposed or previously approved corrective action plan;
 - (4) The department's tentative decision concerning the proposed corrective action plan or concerning the termination of the previously approved corrective action plan;
 - (5) Announcement that an informational meeting will be held in accordance with subsection (i);
 - (6) Request for comments on the corrective action plan and the department's tentative decision; and
 - (7) Availability of information on the release and the department's tentative decision.
- (f) Notice to those individuals defined in paragraph (d)(2) shall be in the form of a notice in a local newspaper and shall include at least the same information as in subsection (e).
- (g) Comments shall be received by the department no later than thirty days after the notice provided in subsections (e) and (f) or after the end of the public meeting, if held, pursuant to subsection (i), whichever occurs later.
- (h) Information on the release, the proposed corrective action plan, and the department's tentative decision on the plan shall be made available to the public for inspection upon request.
- (i) Before approving a corrective action plan, the department may conduct a public meeting to provide information and receive comments on the proposed plan. A meeting will be held if there is sufficient public interest. Public interest shall be indicated by written request to the department.

- (j) At the director's discretion, a notice of final decision may be issued. [Eff] (Auth: HRS §§342L-3, 342L-35) (Imp: 40 C.F.R. §280.67)
- §11-281-80.1 Reporting and recordkeeping. (a) No later than ninety days following the confirmation of a release in accordance with section 11-281-63, owners and operators must submit to the department a written report of:
 - (1) All release response actions taken pursuant to this subchapter during the first ninety-day period (first quarter); and
 - (2) A plan for future release response actions to be taken.
- (b) Beginning one hundred eighty days following confirmation of a release, owners and operators must submit written quarterly progress reports to the department describing:
 - (1) All response actions taken pursuant to this subchapter after the last reported date;
 - (2) A plan for future release response actions to be taken; and
 - (3) Information required pursuant to section 11-281-78.1.
- (c) A quarterly progress report is not required
 if:
 - (1) Response actions have met the requirements of section 11-281-78; and
 - (2) A final quarterly report has been submitted.

NOTE: The report contents and format in the TGM may be helpful in complying with this section. [Eff] (Auth. HRS §§342L-3, 342L-35) (Imp: HRS §342L-35)

TABLE 1-la.Tier 1 Action Levels for Soil and Groundwater: Rainfall < 200cm/year (6/99)

21041141141	- Italiilall	<u>< 200€111/ye</u>	(0/33/	
RAINFALL ≤200CM/YEAR				
Contaminant	DRINKING SOURCE TH	G WATER IREATENED	DRINKING SOURCE NOT	
	Groundwater (mg/l)	Soil (mg/kg):	Groundwater (mg/l)	Soil (mg/kg):
Benzene	0.005	0.05	1.7	1.7
Toluene	1.0	16	2.1	34
Ethylbenzene	(0.14)	0.50	0.14	0.50
Xylene	10	23	[10]	23
Benzo(a)pyrene	0.0002	1.0de	[0.0002]	1.0de
Acenaphthene	(0.32)	18sat	0.32	18sat
Fluoranthene	(0.013)	11sat	0.013	11sat
Naphthalene	0.24	41sat	0.77	41sat
PCE	0.005	0.29	0.145	5.0de
1,1 DCE	0.046	0.47de	3.9	0.47de
Vinyl Chloride	0.002	0.18de	[0.002]	0.18de
TCE	0.005	0.01	0.70	1.5
1,1,1 TCA	0.20	0.10	6.0	3.0
PCBs (all)	0.0005	1de	0.002	1de
Lead (total)	(0.0056)	400de	0.0056	400de
Cadmium (total)	0.005	38de	0.009	38de
TPH-residual fuels	NS	5,000	NS	5,000
TPH-middle distillates	NS	5,000	NS	5,000
TPH-gasolines	NS	2,000	NS	2,000

§11-281-80.1

TABLE 1-1b.Tier 1 Action Levels for Soil and Groundwater: Rainfall > 200cm/year (6/99)

RAINFALL >200CM/YEAR					
Contaminant		G WATER HREATENED	DRINKING WATER SOURCE NOT THREATENED		
	Groundwater (mg/l)	Soil (mg/kg):	Groundwater (mg/l)	Soil (mg/kg):	
Benzene	0.005	0.05	1.7	0.68	
Toluene	1.0	2.6	2.1	5.5	
Ethylbenzene	(0.14)	0.13	0.14	0.13	
Xylene	10	8	[10]	8	
Benzo(a)pyrene	0.0002	1.0de	[0.0002]	1.0de	
Acenaphthene	(0.32)	18sat	0.32	18sat	
Fluoranthene	(0.013)	11sat	0.013	11sat	
Naphthalene	0.24	41sat	0.77	41sat	
PCE	0.005	0.04	0.145	1.1	
1,1 DCE	0.046	0.47de	3.9	0.47de	
Vinyl Chloride	0.002	0.18de	[0.002]	0.18de	
TCE	0.005	0.004	0.70	0.56	
1,1,1 TCA	0.20	0.06	6.0	1.9	
PCBs (all)	0.0005	1de	0.002	1de	
Lead (total)	(0.0056)	400de	0.0056	400de	
Cadmium (total)	0.005	38de	0.009	38de	
TPH-residual fuels	NS	5,000	NS	5,000	
TPH-middle distillates	NS	5,000	NS	5,000	
TPH-gasolines	NS	2,000	NS	2,000	

TABLE 1-1 (cont.). Tier 1 Action Levels for soil and groundwater: Notes ANNOTATIONS:

unmarked criteria: groundwater-protection concerns dominate

de: direct-exposure concerns dominate

sat: saturation concentration, groundwater-protection concerns dominate

(): Same as surface water; surface water standard more stringent than drinkingwater standard.

[]: Same as drinking water; surface water standards not set.

NS: no standard, no drinking water or surface water criteria set.

PCE: tetrachloroethylene, DCE: dichloroethylene, TCE: trichloroethylene, TCA: trichloroethane, PCBs: polychlorinated biphenyls. TPH: total petroleum hydrocarbons

NOTES:

- Determination of groundwater utility should be determined based on the DOH policy Determination of Groundwater Utility at Leaking Underground Storage Tank Sites (September 13, 1995). (HIDOH, 1995b)
- 2. TPH criteria as presented in Reporting, Remediation, and Management of Petroleum-Contaminated Soil (December, 1995). (HIDOH, 1995d). Gasolines: characterized by a predominance of alkyl benzenes and straight-chain, branched, and cyclo- alkanes and alkenes with carbon ranges of C6 to C12. Middles distillates (e.g., kerosene, diesel fuel, home heating fuel, jet fuel, etc.): characterized by a predominance of straight-chain alkanes and polynuclear aromatic hydrocarbons with carbon ranges of C12 to C24. Residual fuels: characterized by long chain alkanes (carbon range >C24) and less predominant aromatics that include phenathrenes, benzopyrenes, and other poly-nuclear aromatic hydrocarbons.
- 3. The facility should contact DOH for further guidance when laboratory practical quantification limits exceed the recommended groundwater criteria.
- 4. Lowermost limit on soil action levels for benzene leachate concerns set at 0.05mg/kg based on field experience rather than adhering to SESOIL results. (See Chapter 1 of the TGM.)
- 5. Soil action levels set for leachate-impact concerns (SALs not annotated with "sat" or "de") assume depth to groundwater is two meters or less and assume no dilution of leachate in groundwater (i.e., Dilution Attentuation Factor (DAF) = 1. Not applicable to TPH criteria. See Chapter 2 and Table 1 in Appendix F of the TGM.).
- Refer to Tier 2 discussion (Chapter 2 of the TGM) for guidance on adjustment of Tier 1 leachateimpact SALs with respect to depth to groundwater from the base of the impacted soil and sitespecific DAFs.

GROUNDWATER-IMPACT MODEL (refer to the TGM)

Climate data: Standard rainfall models: 'Āhuimanu Loop station data adjusted to 200cm annual rainfall.

High rainfall models: Honomū Mauka station data adjusted to 400cm annual rainfall.

Geologic model: Sand or very permeable saprolite/soil overlying fractured, porous basalt.

DIRECT-EXPOSURE MODEL (refer to the TGM)

Assumes long-term residential exposure to impacted soil through inhalation, ingestion, and dermal absorption.

SUBCHAPTER 8

CLOSURE AND CHANGE-IN-SERVICE

- §11-281-81 <u>Temporary closure</u>. (a) An UST or tank system is considered temporarily closed if owners and operators do not deposit regulated substance into the UST or tank system or dispense regulated substance from the UST or tank system during a time period of twelve months or less except as provided for in subsection (e).
- (b) When an UST or tank system is temporarily closed, owners and operators must continue operation and maintenance of any corrosion protection system in accordance with section 11-281-42, and any release detection method in accordance with subchapter 5. However, release detection is not required as long as the UST or tank system is empty. The UST or tank system is empty when all materials have been removed using practices commonly recognized by the industry so that no more than 2.5 centimeters (one inch) of residue, or residue that is no more than 0.3 percent by weight of the total capacity of the UST or tank system, remains in the UST or tank system.
- (c) Owners and operators must comply with subchapters 6 and 7 if a release is suspected or confirmed.
- (d) When an UST or tank system is temporarily closed for three months or more, owners and operators must also comply with the following requirements:
 - (1) Leave vent lines open and functioning; and
 - (2) Cap and secure all other lines, pumps, manways, and ancillary equipment.
- (e) When an UST or tank system is temporarily closed for more than twelve months, owners and operators must permanently close the UST or tank system if it does not meet the performance standards in sections 11-281-11 through 11-281-18 or the upgrading requirements in section 11-281-18, except that the spill and overfill equipment requirements do not have to be met. However, after December 22, 1998, an UST or tank system filled by transfers of more than twenty-five gallons at one time, must meet spill and overfill prevention equipment requirements and owners and

- §11-281-82 <u>Permanent closure and change-in-service</u>. (a) In permanently closing or changing the service of an UST or tank system, owners and operators must comply with the requirements of this section.
- (b) At least thirty days before beginning either permanent closure or a change-in-service of an UST or tank system, owners and operators must notify the department in writing of their intent to permanently close or make the change-in-service, unless such action is in response to a confirmed release.

NOTE: A form such as that in the $\underline{\text{TGM}}$ may be helpful in fulfilling the notification requirements of subsection (b).

- (c) At least seven days before a permanent closure or change-in-service action, owners or operators must notify the department of the exact date(s) that the activity will occur.
- (d) To permanently close an UST or tank system, owners and operators must:
 - (1) Empty the UST and tank system by removing all liquid contents and accumulated sludges from the UST and tank system;
 - (2) Remove the UST or tank system from the ground, or leave the UST or tank system inplace and fill the UST or tank system with an inert solid material in accordance with local agency requirements; and
 - (3) Conduct a site assessment of the area beneath and around the UST or tank system in accordance with section 11-281-83.

- (e) Continued use of an UST or tank system to store a non-regulated substance is considered a changein-service. Before a change-in-service, owners and operators must:
 - (1) Empty the UST and tank system by removing all liquid contents and accumulated sludges from the UST and tank system; and
 - (2) Conduct a site assessment of the area beneath and around the UST or tank system in accordance with section 11-281-83.

NOTE: The following cleaning and closure procedures may be helpful in complying with this section:

- A. American Petroleum Institute Recommended Practice 1604, "Removal and Disposal of Used Underground Petroleum Storage Tanks";
- B. American Petroleum Institute Publication 2015, "Cleaning Petroleum Storage Tanks";
- C. American Petroleum Institute Recommended Practice 1631, "Interior Lining of Underground Storage Tanks," may be used as guidance for compliance with this section; and
- D. The National Institute for Occupational Safety and Health "Criteria for a Recommended Standard * * * Working in Confined Space" may be used as guidance for conducting safe closure procedures at some hazardous substance tanks. [Eff] (Auth: HRS §§342L-3, 342L-37) (Imp: 40 C.F.R. §280.71)
- §11-281-83 <u>Site assessment</u>. (a) Owners and operators must perform a site assessment in permanently closing or changing the service of an UST or tank system.
- (b) Before permanent closure or a change-inservice is completed, owners and operators must measure for the presence of a release of regulated substance where contamination is most likely to be present at the UST or tank system site.
 - (c) In selecting sample types, sample locations,

and measurement methods, owners and operators must consider the method of closure, the nature of the stored substance, the types of backfill and surrounding soil, the depth and flow of ground water, and other factors appropriate for identifying the presence of a release.

- (d) If a release of regulated substance is discovered in carrying out the requirements of this section, or by any other means, owners and operators must respond to the release in accordance with the requirements of subchapter 7. [Eff] (Auth: HRS §§342L-3, 342L-37) (Imp: 40 C.F.R. §280.72)
- §11-281-84 Previously-closed underground storage tanks or tank systems. (a) Owners and operators of USTs or tank systems which have been removed before December 22, 1988, or were left in-place but have not been in operation on or after December 22, 1988, must comply with the requirements of this subchapter, and subchapter 7, if contaminated soil, contaminated ground water, or free product as a vapor or liquid is discovered by any means in or around the location or former location of the UST or tank system.
- §11-281-85 Closure records. (a) Owners and operators permanently closing or changing the service of an UST or tank system must submit to the department a revised written notification form pursuant to section 11-281-21 or submit a written notice pursuant to section 11-281-29(b), whichever is appropriate.
- (b) Owners and operators must keep and maintain records in accordance with section 11-281-45(c)(5). These records must be capable of demonstrating compliance with the requirements of this subchapter.
- (c) Records of compliance with permanent closure or change-in-service requirements, including the

results of the site assessment required in section 11-281-83, must be kept and maintained for at least three years after completion of permanent closure or change-in-service. These results must be kept and maintained in one of the following ways:

- (1) By owners and operators who permanently closed or changed the service of the UST or tank system;
- (2) By current owners and operators of the UST or tank system site; or
- (3) By submitting these records to the department if they cannot be maintained at the facility or site. [Eff] (Auth: HRS §§342L-3, 342L-37) (Imp: 40 C.F.R. §280.74)

§§11-281-86 to 11-281-90 (Reserved)

SUBCHAPTER 9

FINANCIAL RESPONSIBILITY

§11-281-91 Applicability. (a) This subchapter applies to all owners and operators of petroleum USTs or tank systems except as otherwise provided in this section.

- (b) (Reserved)
- (c) State and federal government entities whose debts and liabilities are the debts and liabilities of the United States, the State of Hawaii, or any other state, are exempt from the requirements of this subchapter.
- (d) The requirements of this subchapter do not apply to owners and operators of any UST or tank system described in section 11-281-01(b) or (c).

§11-281-92 (Reserved)

§11-281-93 <u>Definition of terms</u>. When used in this subchapter, the following terms have the meanings given below:

"Accidental release" means any sudden or nonsudden release of petroleum from an UST or tank system that results in a need for release response action, compensation for bodily injury or property damage, or both, neither expected nor intended by UST or tank system owners or operators.

"Bodily injury" shall have the meaning given to this term by applicable state law; however, this term shall not include those liabilities which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for bodily injury.

"Chief Financial Officer," in the case of local government owners and operators, means the individual with the overall authority and responsibility for the collection, disbursement, and use of funds by the local government.

"Controlling interest" means direct ownership of at least 50 percent of the voting stock of another entity.

"Corrective action" or "release response action" means those activities carried out in response to any release from an underground storage tank or tank system to minimize or mitigate the impact of the release of regulated substances in order to protect human health and the environment.

"Director" means the director of the department of health.

"Financial reporting year" means the latest consecutive twelve-month period for which any of the following reports used to support a financial test is prepared:

- (1) A 10-K report submitted to the U.S. Securities and Exchange Commission;
- (2) An annual report of tangible net worth submitted to Dun and Bradstreet; or
- (3) Annual reports submitted to the federal Energy Information Administration or the

federal Rural Electrification Administration. "Financial reporting year" may thus comprise a fiscal or a calendar year period.

"HAR" means the Hawaii Administrative Rules.

"HRS" means the Hawaii Revised Statutes.

"Legal defense cost" is any expense that owners or operators or providers of financial assurance incur in defending against claims or actions brought:

- (1) By the U.S. EPA or the state to require release response action or to recover the costs of release response action;
- (2) By or on behalf of a third party for bodily injury or property damage caused by an accidental release; or
- (3) By any person to enforce the terms of a financial assurance mechanism.

"Local government" means counties.

"Occurrence" means an accident, including continuous or repeated exposure to conditions, which results in a release from an UST or tank system. This definition is intended to assist in the understanding of these rules and is not intended either to limit the meaning of "occurrence" in a way that conflicts with standard insurance usage or to prevent the use of other standard insurance terms in place of "occurrence."

"Owner or operator" when owners or operators are separate parties, refers to the party that is obtaining or has obtained financial assurances.

"Petroleum marketing facilities" include all facilities at which petroleum is produced or refined and all facilities from which petroleum is sold or transferred to other petroleum marketers or to the public.

"Petroleum marketing firms" are all firms owning petroleum marketing facilities. Firms owning other types of facilities with USTs or tank systems as well as petroleum marketing facilities are considered to be petroleum marketing firms.

"Property damage" shall have the meaning given this term by applicable state law. This term shall not include those liabilities which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for property damage. However, such exclusions for property damage shall not include response actions associated with releases from USTs or tank systems which are covered by the policy.

"Provider of financial assurance" means a person that provides evidence of financial responsibility to an owner or operator of an UST or tank system through one of the financial mechanisms listed in section 11-281-96 through section 11-281-102, including a guarantor, insurer, risk retention group, surety, issuer of a letter of credit, issuer of a state-required mechanism, or a state.

"Substantial business relationship" means the extent of a business relationship necessary under applicable state law to make a guarantee contract issued incident to that relationship valid and enforceable. A guarantee contract is issued "incident to that relationship" if it arises from and depends on existing economic transactions between the guarantor and the owner or operator.

"Substantial governmental relationship" means the extent of a governmental relationship necessary under applicable state law to make an added guarantee contract issued incident to that relationship valid and enforceable. A guarantee contract is issued "incident to that relationship" if it arises from a clear commonality of interest in the event of an UST or tank system release such as coterminous boundaries, overlapping constituencies, common ground water aquifer, or other relationship other than monetary compensation that provides a motivation for the guarantor to provide a guarantee.

"Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets do not include intangibles such as goodwill and rights to patents or royalties. For purposes of this definition, "assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity as a result of past transactions.

"Termination" under section 11-281-98(b)(1) and section 11-281-98(b)(2) means only those changes that could result in a gap in coverage such as where the insured has not obtained substitute coverage or has obtained substitute coverage with a different retroactive date than the retroactive date of the

original policy. [Eff] (Auth: HRS §§342L-3, 342L-36) (Imp: 40 C.F.R. §280.92)

§11-281-94 Amount and scope of required financial responsibility. (a) Owners or operators of petroleum USTs or tank systems must demonstrate financial responsibility for taking release response action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs or tank systems in at least the following peroccurrence amounts:

- (1) For owners or operators of petroleum USTs or tank systems that are located at petroleum marketing facilities, or that handle an average of more than ten thousand gallons of petroleum per month based on annual throughput for the previous calendar year; \$1 million.
- (2) For all other owners or operators of petroleum USTs or tank systems; \$500,000.
- (b) Owners or operators of petroleum USTs or tank systems must demonstrate financial responsibility for taking release response action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs or tank systems in at least the following annual aggregate amounts:
 - (1) For owners or operators of one to one hundred petroleum USTs, one million dollars; and
 - (2) For owners or operators of one hundred one or more petroleum USTs, two million dollars.
- (c) For the purposes of subsections (b) and (f) only, "a petroleum "UST" means a single containment unit and does not mean combinations of single containment units.
- (d) Except as provided in subsection (e), if an owner or operator uses separate mechanisms or separate combinations of mechanisms to demonstrate financial responsibility for:
 - (1) Taking release response action;
 - (2) Compensating third parties for bodily injury and property damage caused by sudden

- accidental releases; or
- (3) Compensating third parties for bodily injury and property damage caused by nonsudden accidental releases,

the amount of assurance provided by each mechanism or combination of mechanisms must be in the full amount specified in subsections (a) and (b).

- (e) If an owner or operator uses separate mechanisms or separate combinations of mechanisms to demonstrate financial responsibility for different petroleum USTs or tank systems, the annual aggregate required shall be based on the number of USTs or tank systems covered by each such separate mechanism or combination of mechanisms.
- Owners or operators shall review the amount (f) of aggregate assurance provided whenever additional petroleum USTs or tank systems are acquired or installed. If the number of petroleum USTs or tank systems for which assurance must be provided exceeds one hundred, the owner or operator shall demonstrate financial responsibility in the amount of at least two million dollars of annual aggregate assurance by the anniversary of the date on which the mechanism demonstrating financial responsibility became effective. If assurance is being demonstrated by a combination of mechanisms, the owner or operator shall demonstrate financial responsibility in the amount of at least two million dollars of annual aggregate assurance by the first-occurring effective date anniversary of any one of the mechanisms combined (other than a financial test or guarantee) to provide assurance.
- (g) The amounts of assurance required under this section exclude legal defense costs.
- (h) The required per-occurrence and annual aggregate coverage amounts do not in any way limit the liability of the owner or operator. [Eff

] (Auth: HRS §§342L-3, 342L-36) (Imp: 40 C.F.R. §280.93)

§11-281-95 Allowable mechanisms and combinations of mechanisms. (a) Subject to the limitations of subsections (b) and (c):

- (1) An owner or operator, including a local government owner or operator, may use any one or combination of the mechanisms listed in section 11-281-96 through section 11-281-102 to demonstrate financial responsibility under this subchapter for one or more USTs or tank systems; and
- (2) A local government owner or operator may use any one or combination of the mechanisms listed in section 11-281-103 through section 11-281-107 to demonstrate financial responsibility under this subchapter for one or more USTs or tank systems.
- (b) An owner or operator may use a guarantee under section 11-281-97 or surety bond under section 11-281-99 to establish financial responsibility only if the state attorney general has submitted a written statement to the director that a guarantee or surety bond executed as described in this section is a legally valid and enforceable obligation in the State.

§11-281-96 Financial test of self-insurance.

- (a) An owner or operator, or guarantor or both may satisfy the requirements of section 11-281-94 by passing a financial test as specified in this section. To pass the financial test of self-insurance, the owner or operator, or guarantor or both, must meet the criteria of subsection (b) or (c) based on year-end financial statements for the latest completed fiscal year.
 - (b)(1) The owner or operator, or guarantor or both, must have a tangible net worth of at least ten times:
 - (A) The total of the applicable aggregate amount required by section 11-281-94,

based on the number of USTs or tank systems for which a financial test is used to demonstrate financial responsibility to the state department of health;

- (B)(i) The sum of the corrective action cost estimates, the current closure and post-closure care cost estimates, and amount of liability coverage for which a financial test is used to demonstrate financial responsibility to U.S. EPA under 40 Code of Federal Regulations 264.101, 264.143, 264.145, 265.143, 265.145, 264.147, and 265.147; or
 - (ii) The sum of the corrective action cost estimates, the current closure and post-closure care cost estimates, and amount of liability coverage for which a financial test is used to demonstrate financial responsibility to the state department of health under sections 11-264-101, 11-264-143, 11-264-145, 11-265-143, 11-265-145, 11-264-147, and 11-265-147 after the state hazardous waste program has been authorized by the U.S. EPA under 40 Code of Federal Regulations part 271; and
- (C) The sum of current plugging and abandonment cost estimates for which a financial test is used to demonstrate financial responsibility to the U.S. EPA under 40 Code of Federal Regulations 144.63 or to the state department of health when the state underground injection program is authorized by the U.S. EPA under 40 Code of Federal Regulations 145.
- (2) The owner or operator, or guarantor or both, must have a tangible net worth of at least ten million dollars.
- (3) The owner or operator, or guarantor or both,

- must have a letter signed by the chief financial officer worded as specified in subsection (d).
- (4) The owner or operator, or guarantor or both, must either:
 - (A) File financial statements annually with the U.S. Securities and Exchange Commission, the federal Energy Information Administration, or the federal Rural Electrification Administration; or
 - (B) Report annually the firm's tangible net worth to Dun and Bradstreet, and Dun and Bradstreet must have assigned the firm a financial strength rating of 4A or 5A.
- (5) The firm's year-end financial statements, if independently audited, cannot include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" qualification.
- (c)(1) The owner or operator, or guarantor or both, must meet the financial test requirements of section 11-281-147(f)(1) substituting the appropriate amounts specified in sections 11-281-94(b)(1) and (b)(2) for the "amount of liability coverage" each time specified in that section.
- (2) The fiscal year-end financial statements of the owner or operator, or guarantor or both, must be examined by an independent certified public accountant and be accompanied by the accountant's report of the examination.
- (3) The firm's year-end financial statements cannot include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" qualification.
- (4) The owner or operator, or guarantor or both, must have a letter signed by the chief financial officer, worded as specified in subsection (d).
- (5) If the financial statements of the owner or operator, or guarantor or both, are not submitted annually to the U.S. Securities and Exchange Commission, the federal Energy Information Administration or the federal

Rural Electrification Administration, the owner or operator, or guarantor, or both, must obtain a special report by an independent certified public accountant stating that:

- (A) The accountant has compared the data that the letter from the chief financial officer specifies as having been derived from the latest year-end financial statements of the owner or operator, or guarantor or both, with the amounts in such financial statements; and
- (B) In connection with that comparison, no matters came to the accountant's attention which caused the accountant to believe that the specified data should be adjusted.
- (d) To demonstrate that it meets the financial test under subsection (b) or (c), the chief financial officer of the owner or operator, or guarantor, must sign, within one hundred twenty days of the close of each financial reporting year, as defined by the twelve-month period for which financial statements used to support the financial test are prepared, a letter worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Letter from Chief Financial Officer

I am the chief financial officer of [insert: name and address of the owner or operator, or guarantor]. This letter is in support of the use of [insert: "the financial test of self-insurance," or "guarantee" or both,] to demonstrate financial responsibility for [insert: "taking corrective action" or "compensating third parties for bodily injury and property damage" or both] caused by [insert: "sudden accidental releases" or "nonsudden accidental releases" or both] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an) underground storage tank(s).

Underground storage tanks at the following

facilities are assured by this financial test by this [insert: "owner or operator" or "guarantor" or both]:
 [List for each facility: the name and address of the facility where tanks assured

address of the facility where tanks assured by this financial test are located, and whether tanks are assured by this financial test. If separate mechanisms or combinations of mechanisms are being used to assure any of the tanks at this facility, list each tank assured by this financial test by the tank identification number provided in the notification submitted pursuant to section 342L-30, Hawaii Revised Statutes or 40 Code of Federal Regulations section 280.22 or in the permit applications submitted under sections 11-281-24 and 11-281-26, Hawaii Administrative Rules.]

A [insert: "financial test" or "guarantee" or both] is also used by this [insert: "owner or operator," or "guarantor"] to demonstrate evidence of financial responsibility in the following amounts under other U.S. Environmental Protection Agency regulations or state programs authorized by the U.S. Environmental Protection Agency under 40 CFR Parts 271 and 145:

AMOUNT

Plugging and Abandonment

TOTAL

Ś							
т.	_	_	 _	_	_	_	

This [insert: "owner or operator," or "guarantor"] has not received an adverse opinion, a disclaimer of opinion, or a "going concern" qualification from an independent auditor on his or her financial statements for the latest completed fiscal year.

[Fill in the information for Alternative I if the criteria of section 11-281-96(b), Hawaii Administrative Rules, are being used to demonstrate compliance with the financial test requirements. Fill in the information for Alternative II if the criteria of section 11-281-96(c), Hawaii Administrative Rules, are being used to demonstrate compliance with the financial test requirements.]

ALTERNATIVE I

1.	Amount of annual UST aggregate coverage being assured by a financial	\$	
	test, or guarantee or both		
2.	Amount of corrective action, closure and post-closure care costs, liability coverage, and plugging and		
	abandonment costs covered by a	\$	
	financial test, or guarantee or both,		
3.	Sum of lines 1 and 2	\$	
4.	Total tangible assets	\$	
	_		
5.	Total liabilities [if any of the amount reported on line 3 is included in total liabilities, you may deduct		
	that amount from this line and add that amount to line 6]	\$	
6.	Tangible net worth [subtract line 5 from line 4]	\$	
	IIOM IIME 4]		
7.	Is line 6 at least ten million dollars?	Yes	No

	8.	Is line 6 at least ten times line 3?	Yes	No
	9.	Have financial statements for the latest fiscal year been filed with the U.S. Securities and Exchange Commission?	Yes	No
	10.	Have financial statements for the latest fiscal year been filed with the federal Energy Information Administration?	Yes	No
	11.	Have financial statements for the latest fiscal year been filed with the federal Rural Electrification Administration?	Yes	No
	12.	Has financial information been provided to Dun and Bradstreet, and has Dun and Bradstreet provided a financial strength rating of 4A or 5A? [Answer "Yes" only if both criteria have been met.]	Yes	No
7	ALTER	NATIVE II		
			Amou	nt
	1.	Amount of annual UST aggregate coverage being assured by a financial test, or guarantee or both,	\$	
	2.	Amount of corrective action, closure and post-closure care costs, lability coverage, and plugging and abandonment costs covered by a	\$	
	3.	financial test, or guarantee or both, Sum of lines 1 and 2	\$	
	•		Τ	
	4.	Total tangible assets	\$	

5.	Total liabilities [if any of the amount reported on line 3 is included in total liabilities, you may deduct that amount from this line and add that amount to line 6]	\$	
6.	Tangible net worth [subtract line 5 from line 4]	\$	
7.	Total assets in the U.S. [required only if less than ninety per cent of assets are located in the U.S.]	\$	
8.	Is line 6 at least ten million dollars?	Yes	No
9.	Is line 6 at least six times line 3?	Yes	No
10.	Are at least ninety per cent of assets located in the U.S.? [If "No," complete line 11]	Yes	No
11.	Is line 7 at least six times line 3?	Yes	No
	[Fill in either lines 12-15 or lines 16-18:]		
12.	Current assets	\$	
13.	Current liabilities	\$	
14.	Net working capital [subtract line 13 from line 12]	\$	
15.	Is line 14 at least six times line 3?	Yes	No
16.	Current bond rating of most recent bond issue		
17.	Name of rating service		
18.	Date of maturity of bond		

19. Have financial statements for the latest fiscal year been filed with the U.S. Securities and Exchange Commission, the federal Energy Information Administration, or the federal Rural Electrification Administration?

Yes No

[If "No," please attach a report from an independent certified public accountant certifying that there are no material differences between the data as reported in lines 4-18 above and the financial statements for the latest fiscal year.]

[For both Alternative I and Alternative II complete the certification with this statement.]

I hereby certify that the wording of this letter is identical to the wording specified in section 11-281-96(d), Hawaii Administrative Rules, as such rules were constituted on the date shown immediately below.

[Signature]

[Name]

[Title]

[Date]

- (e) If an owner or operator using the test to provide financial assurance finds that he or she no longer meets the requirements of the financial test based on the year-end financial statements, the owner or operator must obtain alternative coverage within one hundred fifty days of the end of the year for which financial statements have been prepared.
- (f) The director may require reports of financial condition at any time from the owner or operator, or guarantor or both. If the director finds, on the basis of such reports or other information, that the owner or operator, or guarantor or both, no longer meets the financial test requirements of sections 11-281-96(b) or (c) and (d), the owner or operator must obtain alternate coverage within thirty days after

notification of such a finding.

- §11-281-97 <u>Guarantee</u>. (a) An owner or operator may satisfy the requirements of section 11-281-94 by obtaining a guarantee that conforms to the requirements of this section. The guarantor must be:
 - (1) A firm that
 - (A) Possesses a controlling interest in the owner or operator;
 - (B) Possesses a controlling interest in a firm described under paragraph (a)(1)(A);
 - (C) Is controlled through stock ownership by a common parent firm that possesses a controlling interest in the owner or operator; or
 - (2) A firm engaged in a substantial business relationship with the owner or operator and issuing the guarantee as an act incident to that business relationship.
- (b) Within one hundred twenty days of the close of each financial reporting year the guarantor must demonstrate that it meets the financial test criteria of section 11-281-96 based on year-end financial statements for the latest completed financial reporting year by completing the letter from the chief financial officer described in section 11-281-96(d) and must deliver the letter to the owner or operator. If the guarantor fails to meet the requirements of the financial test at the end of any financial reporting year, within one hundred twenty days of the end of that financial reporting year the guarantor shall send by certified mail, before cancellation or nonrenewal of

the guarantee, notice to the owner or operator. If the director notifies the guarantor that it no longer meets the requirements of the financial test of either section(s) 11-281-96(b) or (c), and (d), the guarantor must notify the owner or operator within ten days of receiving such notification from the director. In both cases, the guarantee will terminate no less than 120 days after the date the owner or operator receives the notification, as evidenced by the return receipt. The owner or operator must obtain alternative coverage as specified in section 11-281-110(c).

(c) The guarantee must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

GUARANTEE

Guarantee made this [date] by [name of guaranteeing entity], a business entity organized under the laws of the State of [name of state], herein referred to as guarantor, to the Hawaii state department of health and to any and all third parties, and obliges, on behalf of [owner or operator] of [business address].

Recitals.

- (1) Guarantor meets or exceeds the financial test criteria of section 11-281-96(b) or (c) and (d), Hawaii Administrative Rules, and agrees to comply with the requirements for guarantors as specified in section 11-281-97(b), Hawaii Administrative Rules.
- (2) [Owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to section 342L-30, Hawaii Revised Statutes or 40 Code of Federal Regulations section 280.22 or in the permit applications submitted under sections 11-281-24 and 11-

281-26, Hawaii Administrative Rules, and the name and address of the facility.] This guarantee satisfies the requirements of subchapter 9 of chapter 11-281 of the Hawaii Administrative Rules for assuring funding for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank(s) in the amount of [insert dollar amount] per occurrence and [insert dollar amount] annual aggregate.

(3) [Insert appropriate phrase: "On behalf of our subsidiary" (if guarantor is corporate parent of the owner or operator); "On behalf of our affiliate" (if guarantor is a related firm of the owner or operator); or "Incident to our business relationship with" (if guarantor is providing the guarantee as an incident to a substantial business relationship with owner or operator)] [owner or operator], guarantor guarantees to the Hawaii department of health and to any and all third parties that:

In the event that [owner or operator] fails to provide alternative coverage within sixty days after receipt of a notice of cancellation of this guarantee and the Hawaii director of health has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon instructions from the Hawaii director of health, shall fund a standby trust fund in accordance with the provisions of section 11-281-108, Hawaii Administrative Rules, in an amount not to exceed the coverage limits specified above.

In the event that the Hawaii director of health determines that [owner or operator] has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with subchapter 7 of chapter 11-281 of Hawaii Administrative Rules, the guarantor upon written instructions from the Hawaii director of health shall fund a standby trust in accordance with the provisions of section 11-281-108, Hawaii Administrative Rules, in

an amount not to exceed the coverage limits specified above.

If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" or "nonsudden" or both] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon written instructions from the Hawaii director of health, shall fund a standby trust in accordance with the provisions of section 11-281-108, Hawaii Administrative Rules, to satisfy such judgment(s), award(s), or settlement agreement(s) up to the limits of coverage specified above.

- (4) Guarantor agrees that if, at the end of any fiscal year before cancellation of this guarantee, the guarantor fails to meet the financial test criteria of section 11-281-96 (b) or (c) and (d), Hawaii Administrative Rules, guarantor shall send within one hundred twenty days of such failure, by certified mail, notice to [owner or operator]. The guarantee will terminate one hundred twenty days from the date of receipt of the notice by [owner or operator], as evidenced by the return receipt.
- (5) Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming guarantor as debtor, within ten days after commencement of the proceeding.
- (6) Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to chapter 11-281, Hawaii Administrative Rules.
- (7) Guarantor agrees to remain bound under this guarantee for so long as [owner or operator] must comply with the applicable financial responsibility requirements of subchapter 9 of chapter 11-281, Hawaii Administrative Rules for the above-identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no

earlier than one hundred twenty days after receipt of such notice by [owner or operator], as evidenced by the return receipt.

- (8) The guarantor's obligation does not apply to any of the following:
 - (a) Any obligation of [insert owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;
 - (b) Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];
 - (c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;
 - (d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from a petroleum underground storage tank;
 - (e) Bodily damage or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of section 11-281-94, Hawaii Administrative Rules.
- (9) Guarantor expressly waives notice of acceptance of this guarantee by the Hawaii department of health, by any or all third parties, or by [owner or operator].

I hereby certify that the wording of this guarantee is identical to the wording specified in section 11-281-97(c), Hawaii Administrative Rules, as such rules were constituted on the effective date shown immediately below.

Effective date:

[Name of guarantor]
[Authorized signature for guarantor]
[Name of person signing]
[Title of person signing]

Signature of witness or notary:

(d) An owner or operator who uses a guarantee to satisfy the requirements of section 11-281-94 must establish a standby trust fund when the guarantee is obtained. Under the terms of the guarantee, all amounts paid by the guarantor under the guarantee will be deposited directly into the standby trust fund in accordance with instructions from the director of Hawaii department of health under section 11-281-108. This standby trust fund must meet the requirements specified in section 11-281-102. [Eff] (Auth: HRS §§342L-3, 342L-36) (Imp: 40 C.F.R. §280.96)

- §11-281-98 Insurance and risk retention group coverage. (a) An owner or operator may satisfy the requirements of section 11-281-94 by obtaining liability insurance that conforms to the requirements of this section from a qualified insurer or risk retention group. Such insurance may be in the form of a separate insurance policy or an endorsement to an existing insurance policy.
- (b) Each insurance policy must be amended by an endorsement worded as specified in paragraph (1) or evidenced by a certificate of insurance worded as specified in paragraph (2), except that instructions in brackets must be replaced with the relevant information and the brackets deleted:

(1) ENDORSEMENT

Name: [name of each covered location]

Address: [address of each covered location]

Policy Number:
Period of Coverage: [current policy period]

Name of [Insurer or Risk Retention Group]:

Address of [Insurer or Risk Retention Group]:

Name of Insured:__

Address of Insured:

Endorsement:

1. This endorsement certifies that the policy to which the endorsement is attached provides liability insurance covering the following underground storage tanks:

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to section 342L-30, Hawaii Revised Statutes or 40 Code of Federal Regulations section 280.22 or in the permit applications submitted under sections 11-281-24 and 26, Hawaii Administrative Rules, and the name and address of the facility.]

for [insert: "taking corrective action", and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; in accordance with and subject to the limits of liability, exclusions, conditions, and other terms of the policy; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tank(s) identified above.

The limits of liability are [insert the dollar amount of the "each occurrence" and "annual aggregate" limits of the Insurer's or Group's liability; if the amount of coverage is different for different types of coverage or for different underground storage tanks or locations, indicate the amount of coverage for each type of coverage, and/or for each underground storage tank or location], exclusive of legal defense costs, which are subject to a separate limit under the policy. This coverage is provided under [policy number]. The effective date of said policy is [date].

- 2. The insurance afforded with respect to such occurrences is subject to all of the terms and conditions of the policy; provided, however, that any provisions inconsistent with subsections (a) through (e) of this paragraph are hereby amended to conform with subsections (a) through (e);
- a. Bankruptcy or insolvency of the insured shall not relieve the ["Insurer" or "Group"] of its obligations under the policy to which this endorsement is attached.
- b. The ["Insurer" or "Group"] is liable for the payment of amounts within any deductible applicable to the policy to the provider of corrective action or a damaged third-party, with a right of reimbursement by the insured for any such payment made by the ["Insurer" or "Group"]. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in sections 11-281-96 through section 11-281-101, Hawaii Administrative Rules.
- c. Whenever requested by the Hawaii
 director of health, the ["Insurer" or
 "Group"] agrees to furnish to the Hawaii
 director of health a signed duplicate

- original of the policy and all endorsements.
- d. Cancellation or any other termination of the insurance by the ["Insurer" or "Group"], except for non-payment of premium or misrepresentation by the insured, will be effective only upon written notice and only after the expiration of sixty days after a copy of such written notice is received by the insured. Cancellation for non-payment of premium or misrepresentation by the insured will be effective only upon written notice and only after expiration of a minimum of ten days after a copy of such written notice is received by the insured.

[Insert for claims-made policies:

The insurance covers claims otherwise е. covered by the policy that are reported to the ["Insurer" or "Group"] within six months of the effective date of cancellation or non-renewal of the policy except where the new or renewed policy has the same retroactive date or a retroactive date earlier than that of the prior policy, and which arise out of any covered occurrence that commenced after the policy retroactive date, if applicable, and prior to such policy renewal or termination date. Claims reported during such extended reporting period are subject to the terms, conditions, limits, including limits of liability, and exclusions of the policy.]

I hereby certify that the wording of this instrument is identical to the wording in section 11-281-98(b)(1), Hawaii Administrative Rules, and that the ["Insurer" or "Group"] is ["licensed to transact the business of insurance or eligible to provide insurance as an excess or surplus lines insurer in the State of Hawaii"].

[Signature of authorized representative of Insurer or Risk Retention Group]
[Name of person signing]
[Title of person signing], Authorized
Representative of [name of Insurer or Risk
Retention Group]
[Address of Representative]

(2) CERTIFICATE OF INSURANCE

Name: [name of each covered location]

Address: [address of each covered location]

Policy Number:

Endorsement (if applicable):

Period of Coverage: [current policy period]

Name of [Insurer or Risk Retention Group]:

Address of [Insurer or Risk Retention Group]:

Name of Insured:

Address of Insured:

Certification:

1. [Name of Insurer or Risk Retention
Group], [the "Insurer" or "Group"], as
identified above, hereby certifies that it
has issued liability insurance covering the
following underground storage tank(s):
 [List the number of tanks at each
 facility and the name(s) and
 address(es) of the facility(ies)
 where the tanks are located. If
 more than one instrument is used to

assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to section 342L-30, Hawaii Revised Statutes or 40 Code of Federal Regulations section 280.22 or in the permit applications submitted under sections 11-281-24 and 11-281-26, Hawaii Administrative Rules, and the name and address of the facility.]

for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; in accordance with and subject to the limits of liability, exclusions, conditions, and other terms of the policy; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tank(s) identified above.

The limits of liability are [insert the dollar amount of the "each occurrence" and "annual aggregate" limits of the Insurer's or Group's liability; if the amount of coverage is different for different types of coverage or for different underground storage tanks or locations, indicate the amount of coverage for each type of coverage and/or for each underground storage tank or location], exclusive of legal defense costs, which are subject to a separate limit under the policy. This coverage is provided under [policy number]. The effective date of said policy is [date].

- 2. The ["Insurer" or "Group"] further certifies the following with respect to the insurance described in Paragraph 1:
- a. Bankruptcy or insolvency of the insured

- shall not relieve the ["Insurer" or "Group"] of its obligations under the policy to which this certificate applies.
- b. The ["Insurer" or "Group"] is liable for the payment of amounts within any deductible applicable to the policy to the provider of corrective action or a damaged third-party, with a right of reimbursement by the insured for any such payment made by the ["Insurer" or "Group"]. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in section 11-281-96 through section 11-281-101, Hawaii Administrative Rules.
- c. Whenever requested by the Hawaii director of health, the ["Insurer" or "Group"] agrees to furnish to the director a signed duplicate original of the policy and all endorsements.
- d. Cancellation or any other termination of the insurance by the ["Insurer" or "Group"], except for non-payment of premium or misrepresentation by the insured, will be effective only upon written notice and only after the expiration of sixty days after a copy of such written notice is received by the insured. Cancellation for non-payment of premium or misrepresentation by the insured will be effective only upon written notice and only after expiration of a minimum of ten days after a copy of such written notice is received by the insured.

[Insert for claims-made policies:

e. The insurance covers claims otherwise covered by the policy that are reported to the ["Insurer" or "Group"] within six months of the effective date of cancellation or non-renewal of the

policy except where the new or renewed policy has the same retroactive date or a retroactive date earlier than that of the prior policy, and which arise out of any covered occurrence that commenced after the policy retroactive date, if applicable, and prior to such policy renewal or termination date. Claims reported during such extended reporting period are subject to the terms, conditions, limits, including limits of liability, and exclusions of the policy.]

I hereby certify that the wording of this instrument is identical to the wording in section 11-281-98(b)(2), Hawaii Administrative Rules, and that the ["Insurer" or "Group"] is ["licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in the State of Hawaii"]. [Signature of authorized representative of Insurer]
[Type Name]
[Title], Authorized Representative of [name of Insurer or Risk Retention Group]
[Address of Representative]

(c) Each insurance policy must be issued by an insurer or a risk retention group that, at a minimum, is licensed to transact the business of insurance or eligible to provide insurance as an excess or surplus lines insurer in Hawaii. [Eff] (Auth: HRS §§342L-3, 342L-36) (Imp: 40 C.F.R. §280.97)

§11-281-99 <u>Surety bond</u>. (a) An owner or operator may satisfy the requirements of section 11-281-94 by obtaining a surety bond that conforms to the requirements of this section. The surety company issuing the bond must be among those listed as acceptable sureties on federal bonds in the latest Circular 570 of the U.S. Department of the Treasury.

(b) The surety bond must be worded as follows,

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except that instructions in brackets must be replaced with the relevant information and the brackets deleted:

PERFORMANCE BOND
Date bond executed: Period of coverage: Principal: [legal name and business address of owner or operator]
Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]
State of incorporation (if applicable):
Surety(ies): [name(s) and business address(es)]
Scope of Coverage: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to section 342L-30, Hawaii Revised Statutes or 40 Code of Federal Regulations section 280.22 or in the permit applications submitted under sections 11-281-24 and 11-281-26, Hawaii Administrative Rules, and the name and address of the facility. List the coverage guaranteed by the bond: "taking corrective action" or "compensating third parties for bodily injury and property damage caused by" or both either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases" or "accidental releases" or "accidental releases" arising from operating the underground storage tank"].
Penal sums of bond: Per occurrence \$ Annual aggregate \$
Surety's bond number:

Know All Persons by These Presents, that we, the

Principal and Surety(ies), hereto are firmly bound to the Hawaii department of health, in the above penal sums for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sums jointly and severally only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sums only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sums.

Whereas said Principal is required under subchapter 9 of chapter 11-281 of the Hawaii Administrative Rules to provide financial assurance for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tanks identified above, and

Whereas said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance;

Now, therefore, the conditions of the obligation are such that if the Principal shall faithfully ["take corrective action, in accordance with subchapter 7 of chapter 11-281 of the Hawaii Administrative Rules, and the Hawaii director of health's instructions for," and/or "compensate injured third parties for bodily injury and property damage caused by" either "sudden" or "nonsudden" or "sudden and nonsudden"] accidental releases arising from operating the tank(s) identified above, or if the Principal shall provide alternate financial assurance, as specified in subchapter 9 of chapter 11-281 of the Hawaii Administrative Rules, within one hundred twenty days after the date the notice of cancellation is received by the Principal

from the Surety(ies), then this obligation shall be null and void; otherwise it is to remain in full force and effect.

Such obligation does not apply to any of the following:

- (a) Any obligation of [insert owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;
- (b) Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];
- (c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;
- (d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from a petroleum underground storage tank;
- (e) Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of section 11-281-94, Hawaii Administrative Rules.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above.

Upon notification by the Hawaii director of health that the Principal has failed to ["take corrective action, in accordance with subchapter 7 of chapter 11-281 of Hawaii Administrative Rules, and the Hawaii director of health's instructions," and/or "compensate injured third parties"] as guaranteed by this bond, the Surety(ies) shall either perform ["corrective action in accordance with chapter 11-281, Hawaii Administrative Rules, and the Hawaii director of health's instructions," or "third-party liability compensation" or both] or place funds in an amount up to the annual aggregate penal sum into the standby trust fund as directed by the Hawaii director of health under section 11-281-108, Hawaii Administrative Rules.

Upon notification by the Hawaii director of health that the Principal has failed to provide alternate

financial assurance within sixty days after the date the notice of cancellation is received by the Principal from the Surety(ies) and that the Hawaii director of health has determined or suspects that a release has occurred, the Surety(ies) shall place funds in an amount not exceeding the annual aggregate penal sum into the standby trust fund as directed by the Hawaii director of health under section 11-281-108, Hawaii Administrative Rules.

The Surety(ies) hereby waive(s) notification of amendments to applicable laws, statutes, rules, and regulations and agrees that no such amendment shall in any way alleviate its (their) obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the annual aggregate to the penal sum shown on the face of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said annual aggregate penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the Principal, provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by the Principal, as evidenced by the return receipt.

The Principal may terminate this bond by sending written notice to the Surety(ies).

In Witness Thereof, the Principal and Surety(ies) have executed this Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in section 11-281-99(b), Hawaii Administrative Rules, as such rules were constituted on the date this bond was executed.

PRINCIPAL

[Signature(s)]
[Name(s)]
[Title(s)]

[Corporate seal]

CORPORATE SURETY(IES)

[Name and address]	
State of Incorporation:	
Liability limit: \$	
[Signature(s)]	
[Name(s) and title(s)]	
[Corporate seal]	

- (c) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond. In all cases, the surety's liability is limited to the per-occurrence and annual aggregate penal sums.
- §11-281-100 Letter of credit. (a) An owner or operator may satisfy the requirements of section 11-281-94 by obtaining an irrevocable standby letter of credit that conforms to the requirements of this section. The issuing institution must be an entity that has the authority to issue letters of credit in the State of Hawaii where used and whose letter-of-credit operations are regulated and examined by a federal or State of Hawaii agency.
 - (b) The letter of credit must be worded as

follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

IRREVOCABLE STANDBY LETTER OF CREDIT

[Name and address of issuing institution]
[Name and address of Hawaii director of health]

Dear Sir or Madam: We hereby establish our

Irrevocable Standby Letter of Credit No. ____ in your
favor, at the request and for the account of [owner or
operator name] of [address] up to the aggregate amount
of [in words] U.S. dollars (\$[insert dollar amount]),
available upon presentation of

- (1) your sight draft, bearing reference to this letter of credit, No. , and
- (2) your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of chapter 342L, Hawaii Revised Statutes."

This letter of credit may be drawn on to cover [insert: "taking corrective action" or "compensating third parties for bodily injury and property damage caused by" or both either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] arising from operating the underground storage tank(s) identified below in the amount of [in words] \$[insert dollar amount] per occurrence and [in words] \$[insert dollar amount] annual aggregate:

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to section 342L-30, Hawaii Revised Statutes or 40 Code of Federal Regulations section 280.22 or in the permit applications submitted under sections 11-281-24 and 11-281-26, Hawaii Administrative Rules, and the name and address of the facility.] The letter of credit may not be drawn on to cover

any of the following:

- (a) Any obligation of [insert owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;
- (b) Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];
- (c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;
- (d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from a petroleum underground storage tank;
- (e) Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of section 11-281-94, Hawaii Administrative Rules.

This letter of credit is effective as of [date] and shall expire on [date], but such expiration date shall be automatically extended for a period of [at least the length of the original term] on [expiration date] and on each successive expiration date, unless, at least one hundred twenty days before the current expiration date, we notify [owner or operator] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. In the event that [owner or operator] is so notified, any unused portion of the credit shall be available upon presentation of your sight draft for one hundred twenty days after the date of receipt by [owner or operator], as shown on the signed return receipt.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [owner or operator] in accordance with your instructions.

We certify that the wording of this letter of credit is identical to the wording specified in section 11-281-100(b), Hawaii Administrative Rules, as such

rules were constituted on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution]
[Date]

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce," or "the Uniform Commercial Code"].

- (c) An owner or operator who uses a letter of credit to satisfy the requirements of section 11-281-94 must also establish a standby trust fund when the letter of credit is acquired. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the director will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the director under section 11-281-108. This standby trust fund must meet the requirements specified in section 11-281-102.

§11-281-101 <u>Trust fund</u>. (a) An owner or operator may satisfy the requirements of section 11-281-94 by establishing a trust fund that conforms to the requirements of this section. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal agency or an agency of the State of Hawaii.

- (b) The wording of the trust agreement must be identical to the wording specified in section 11-281-102(b)(1), and must be accompanied by a formal certification of acknowledgment as specified in section 11-281-102(b)(2).
- (c) The trust fund, when established, must be funded for the full required amount of coverage, or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining required coverage.
- (d) If the value of the trust fund is greater than the required amount of coverage, the owner or operator may submit a written request to the director for release of the excess.
- (e) If other financial assurance as specified in this subchapter is substituted for all or part of the trust fund, the owner or operator may submit a written request to the director for release of the excess.
- §11-281-102 Standby trust fund. (a) An owner or operator using any one of the mechanisms authorized by section 11-281-97, section 11-281-99, or section 11-281-100 must establish a standby trust fund when the mechanism is acquired. The trustee of the standby trust fund must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal agency or an agency of the State of Hawaii.
 - (b)(l)The standby trust agreement, or trust agreement, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

TRUST AGREEMENT

Trust agreement, the "Agreement," entered

into as of [date] by and between [name of the owner or operator], a [name of state] [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert "Incorporated in the State of _____ " or "a national bank"], the "Trustee."

Whereas, the Hawaii state department of health has established certain regulations applicable to the Grantor, requiring that an owner or operator of an underground storage tank shall provide assurance that funds will be available when needed for corrective action and third-party compensation for bodily injury and property damage caused by sudden and nonsudden accidental releases arising from the operation of the underground storage tank. The attached Schedule A lists the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located that are covered by the standby trust agreement.;

[Whereas, the Grantor has elected to establish [insert either "a guarantee," "surety bond," or "letter of credit"] to provide all or part of such financial assurance for the underground storage tanks identified herein and is required to establish a standby trust fund able to accept payments from the instrument (This paragraph is only applicable to the standby trust agreement.)];

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee;

Now, therefore, the Grantor and the Trustee agree as follows:

- (a) The term "Grantor" means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.
- (b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

Section 2. Identification of the Financial Assurance Mechanism. This Agreement pertains to the [identify the financial assurance mechanism, either a guarantee, surety bond, or letter of credit, from which the standby trust fund is established to receive payments (This paragraph is only applicable to the standby trust agreement.)].

Section 3. Establishment of Fund. Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of the Hawaii state department of health. The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided. [The Fund is established initially as a standby to receive payments and shall not consist of any property.] Payments made by the provider of financial assurance pursuant to the Hawaii director of health's instruction are transferred to the Trustee and are referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor as provider of financial assurance, any payments necessary to discharge any liability of the Grantor established by the Hawaii state department of health.

Section 4. Payment for ["Corrective Action" or "Third-Party Liability Claims" or both]. The Trustee shall make payments from the Fund as the Hawaii director of health shall direct, in writing, to provide for the payment of the costs of [insert: "taking corrective action" or "compensating third parties for bodily injury and property damage caused by" or both either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] arising from operating the tanks covered by the financial assurance mechanism identified in this Agreement.

The Fund may not be drawn upon to cover any of the following:

- (a) Any obligation of [insert owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;
- (b) Bodily injury to an employee of [insert owner or operator] arising from, and in the course of employment by [insert owner or operator];
- (c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;
- (d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from a petroleum underground storage tank; (e) Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of section 11-281-94, Hawaii Administrative Rules.

The Trustee shall reimburse the Grantor, or other persons as specified by the Hawaii director of health, from the Fund for corrective action expenditures or third-party liability claims or both, in such amounts as the director shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the director specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

Section 5. Payments Comprising the Fund. Payments made to the Trustee for the Fund shall consist of cash and securities acceptable to the Trustee.

Section 6. Trustee Management. The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this

Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his or her duties with respect to the trust fund solely in the interest of the beneficiaries and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that: (i) Securities or other obligations of the Grantor, or any other owner or operator of the tanks, or any of their affiliates as defined in the federal Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2(a), shall not be acquired or held, unless they are securities or other obligations of the federal or a state government; (ii) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the federal or state government; and

(iii) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment. The Trustee is expressly authorized in its discretion:
(a) To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b) To purchase shares in any investment company registered under the federal Investment Company Act of 1940, 15 U.S.C. 80a-1 et seq., including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretions conferred upon the Trustee by the

other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

- (a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;
- (b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;
- (c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;
- (d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the federal or state government; and
- (e) To compromise or otherwise adjust all claims in favor of or against the Fund.
- Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage

commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section 10. Advice of Counsel. The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any questions arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 11. Trustee Compensation. The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section 12. Successor Trustee. The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. successor trustee shall specify the date on which it assumes administration of the trust in writing sent to the Grantor and the present Trustee by certified mail ten days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section

9.

Section 13. Instructions to the Trustee. All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Schedule B or such other designees as the Grantor may designate by amendment to Schedule B. Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the Hawaii director of health to the Trustee shall be in writing, signed by the director, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or the director hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor or the director or both, except as provided for herein.

Section 14. Amendment of Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor and the Trustee, or by the Trustee and the Hawaii director of health if the Grantor ceases to exist.

Section 15. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 14, this Trust shall be irrevocable and shall continue until terminated at the written direction of the Grantor and the Trustee, or by the Trustee and the Hawaii director of health, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

Section 16. Immunity and Indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this

Trust, or in carrying out any directions by the Grantor or the Hawaii director of health issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 17. Choice of Law. This Agreement shall be administered, construed, and enforced according to the laws of the State of Hawaii or the Comptroller of the Currency in the case of National Association banks.

Section 18. Interpretation. As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

In Witness whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals (if applicable) to be hereunto affixed and attested as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in section 11-281-102(b)(1), Hawaii Administrative Rules, as such rules were constituted on the date written above.

```
[Signature of Grantor]
[Name of the Grantor]
[Title]
Attest:
        [Signature of Trustee]
        [Name of the Trustee]
        [Title]
        [Seal]
        [Signature of Witness]
        [Name of Witness]
        [Title]
        [Seal]
```

(2) The standby trust agreement, or trust agreement, must be accompanied by a formal certification of acknowledgment similar to the following:

State of

	County	
of	_	

On this [date], before me personally came [owner or operator] to me known, who, being by me duly sworn, did depose and say that she/he resides at [address], that she/he is [title] of [corporation], the corporation described in and which executed the above instrument; that she/he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that she/he signed her/his name thereto by like order.

[Signature of Notary Public]
[Name of Notary Public]

- (c) The director will instruct the trustee to refund the balance of the standby trust fund to the provider of financial assurance if the director determines that no additional corrective action costs or third-party liability claims will occur as a result of a release covered by the financial assurance mechanism for which the standby trust fund was established.
- (d) An owner or operator may establish one trust fund as the depository mechanism for all funds assured in compliance with this rule. [Eff]
 (Auth: HRS §§342L-3, 342L-36) (Imp: 40 C.F.R. §280.103)
- §11-281-103 <u>Local government bond rating test</u>.

 (a) A general purpose local government owner or operator, or local government, or both, serving as a

guarantor may satisfy the requirements of section 11-281-94 by having a currently outstanding issue or issues of general obligation bonds of one million dollars or more, excluding refunded obligations, with a Moody's rating of Aaa, Aa, A, or Baa, or a Standard and Poor's rating of AAA, AA, A, or BBB. Where a local government has multiple outstanding issues, or where a local government's bonds are rated by both Moody's and Standard and Poor's, the lowest rating must be used to determine eligibility. Bonds that are backed by credit enhancement other than municipal bond insurance may not be considered in determining the amount of applicable bonds outstanding.

- (b) A local government owner or operator or local government serving as a quarantor that is not a general-purpose local government and does not have the legal authority to issue general obligation bonds may satisfy the requirements of section 11-281-94 by having a currently outstanding issue or issues of revenue bonds of one million or more, excluding refunded issues and by also having a Moody's rating of Aaa, Aa, A, or Baa, or A Standard & Poor's rating of AAA, AA, A or BBB as the lowest rating for any rated revenue bond issued by the local government. Where bonds are rated by both Moody's and Standard & Poor's, the lower rating for each bond must be used to determine eligibility. that are backed by credit enhancement may not be considered in determining the amount of applicable bonds outstanding.
- (c) The local government owner or operator, or guarantor or both, must maintain a copy of its bond rating published within the last twelve months by Moody's or Standard & Poor's.
- (d) To demonstrate that it meets the local government bond rating test, the chief financial officer of a general purpose local government owner or operator, or guarantor or both, must sign a letter worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Letter from Chief Financial Officer

I am the chief financial officer of [insert:

name and address of local government owner or operator, or guarantor]. This letter is in support of the use of the bond rating test to demonstrate financial responsibility for [insert: "taking corrective action" or "compensating third parties for bodily injury and property damage" or both] caused by [insert: "sudden accidental releases" or "nonsudden accidental releases" or both] in the amount of at least [insert: dollar amount] annual aggregate arising from operating (an) underground storage tank(s).

Underground storage tanks at the following facilities are assured by this bond rating test: [List for each facility: the name and address of the facility where tanks are assured by the bond rating test].

The details of the issue date, maturity, outstanding amount, bond rating, and bond rating agency of all outstanding bond issues that are being used by [name of local government owner or operator, or guarantor] to demonstrate financial responsibility are as follows: [complete table]

Issue	Maturity	Outstanding	Bond	Rating
Date	Date	Amount	Rating	Agency*

*[Moody's or Standard & Poor's]

The total outstanding obligation of [insert amount], excluding refunded bond issues, exceeds the minimum amount of one million dollars. All outstanding general obligation bonds issued by this government that have been rated by Moody's or Standard & Poor's are rated as at least investment grade (Moody's Baa or Standard & Poor's BBB) based on the most recent ratings published within the last twelve months. Neither rating service has provided notification within the last twelve months of downgrading of bond ratings below investment grade or of withdrawal of bond rating

other than for repayment of outstanding bond issues.

I hereby certify that the wording of this letter is identical to the wording specified in section 11-281-103(d), Hawaii Administrative Rules, as such regulations were constituted on the date shown immediately below.

[Date]

[Signature]

[Name]

[Title]

(e) To demonstrate that it meets the local government bond rating test, the chief financial officer of local government owner or operator, or guarantor or both other than a general purpose government must sign a letter worded exactly as follow, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Letter from Chief Financial Officer

I am the chief financial officer of [insert: name and address of local government owner or operator, or guarantor]. This letter is in support of the use of the bond rating test to demonstrate financial responsibility for [insert: "taking corrective action" or "compensating third parties for bodily injury and property damage" or both] caused by [insert: "sudden accidental" releases" or "nonsudden accidental releases" or both] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an) underground storage tank(s). This local government is not organized to provide general governmental services and does not have the legal authority under state law or constitutional provisions to issue general obligation debt.

Underground storage tanks at the following facilities are assured by this bond rating test: [List for each facility: the name and address of the facility where tanks are assured by the bond rating test.]

The details of the issue date, maturity, outstanding amount, bond rating, and bond rating agency of all outstanding revenue bond issues that are being used by [name of local government owner or operator, or guarantor] to demonstrate financial responsibility are as follows: [complete table]

Issue	Maturity	Outstanding	Bond	Rating
Date	Date	Amount	Rating	Agency*

*[Moody's or Standard & Poor's]

The total outstanding obligation of [insert amount], excluding refunded bond issues, exceeds the minimum amount of one million dollars. outstanding revenue bonds issued by this government that have been rated by Moody's or Standard & Poor's are rated as at least investment grade (Moody's Baa or Standard & Poor's BBB) based on the most recent ratings published within the last twelve months. The revenue bonds listed are not backed by third-party credit enhancement or are insured by a municipal bond insurance company. Neither rating service has provided notification within the last twelve months of downgrading of bond ratings below investment grade or of withdrawal of bond rating other than for repayment of outstanding bond issues.

I hereby certify that the wording of this letter is identical to the wording specified in section 11-281-103(e), Hawaii Administrative Rules, as such regulations were constituted on the date shown immediately below.

[Date]

[Signature]

[Name]

[Title]

(f) The director may require reports of financial condition at any time from the local government owner or operator, or local government guarantor, or both.

If the director finds, on the basis of such reports or other information, that the local government owner or operator, or guarantor or both, no longer meets the local government bond rating test requirements of section 11-281-103, the local government owner or operator must obtain alternative coverage within thirty days after notification of such a finding.

- (g) If a local government owner or operator using the bond rating test to provide financial assurance finds that it no longer meets the bond rating test requirements, the local government owner or operator must obtain alternative coverage within one hundred fifty days of the change in status. [Eff] (Auth: HRS §§342L-3, 342L-36) (Imp:
-] (Auth: HRS §§342L-3, 342L-36) (Imp: 40 C.F.R. §280.104)
- §11-281-104 Local government financial test.

 (a) A local government owner or operator may satisfy the requirements of section 11-281-94 by passing the financial test specified in this section. To be eligible to use the financial test, the local government owner or operator must have the ability and authority to assess and levy taxes or to freely establish fees and charges. To pass the local government financial test, the owner or operator must meet the criteria of paragraphs (b)(2) and (b)(3) based on year-end financial statements for the latest completed fiscal year.
 - (b)(1) The local government owner or operator must have the following information available, as shown in the year-end financial statements for the latest completed fiscal year:
 - (A) Total Revenues: Consists of the sum of general fund operating and non-operating revenues including net local taxes, licenses and permits, fines and forfeitures, revenues from use of money and property, charges for services, investment earnings, sales (property, publications, etc.), intergovernmental revenues (restricted and unrestricted), and total revenues from all other governmental funds including enterprise,

debt service, capital projects, and special revenues, but excluding revenues to funds held in a trust or agency capacity. For purposes of this test, the calculation of total revenues shall exclude all transfers between funds under the direct control of the local government using the financial test (interfund transfers), liquidation of investments, and issuance of debt.

- Total Expenditures: Consists of the sum (B) of general fund operating and nonoperating expenditures including public safety, public utilities, transportation, public works, environmental protection, cultural and recreational, community development, revenue sharing, employee benefits and compensation, office management, planning and zoning, capital projects, interest payments on debt, payments for retirement of debt principal, and total expenditures from all other governmental funds including enterprise, debt service, capital projects, and special revenues. For purposes of this test, the calculation of total expenditures shall exclude all transfers between funds under the direct control of the local government using the financial test (interfund transfers).
- (C) Local Revenues: Consists of total revenues (as defined in subparagraph (b)(1)(A)) minus the sum of all transfers from other governmental entities, including all monies received from federal, state, or local government sources.
- (D) Debt Service: Consists of the sum of all interest and principal payments on all long-term credit obligations and all interest-bearing short-term credit obligations. Includes interest and principal payments on general obligation

- bonds, revenue bonds, notes, mortgages, judgments, and interest-bearing warrants. Excludes payments on noninterest-bearing short-term obligations, interfund obligations, amounts owed in a trust or agency capacity, and advances and contingent loans from other governments.
- (E) Total Funds: Consists of the sum of cash and investment securities from all funds, including general, enterprise, debt service, capital projects, and special revenue funds, but excluding employee retirement funds, at the end of the local government's financial reporting year. Includes federal securities, federal agency securities, state and local government securities, and other securities such as bonds, notes and mortgages. For purposes of this test, the calculation of total funds shall exclude agency funds, private trust funds, accounts receivable, value of real property, and other non-security assets.
- (F) Population consists of the number of people in the area served by the local government.
- (2) The local government's year-end financial statements, if independently audited, cannot include an adverse auditor's opinion or a disclaimer of opinion. The local government cannot have outstanding issues of general obligation or revenue bonds that are rated as less than investment grade.
- (3) The local government owner or operator must have a letter signed by the chief financial officer worded as specified in subsection (c).
- (c) To demonstrate that it meets the financial test under subsection (b), the chief financial officer of the local government owner or operator, must sign, within one hundred twenty days of the close of each financial reporting year, as defined by the twelve-

month period for which financial statements used to support the financial test are prepared, a letter worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Letter from Chief Financial Officer

I am the chief financial officer of [insert: name and address of the owner or operator]. This letter is in support of the use of the local government financial test to demonstrate financial responsibility for [insert: "taking corrective action" or "compensating third parties for bodily injury and property damage" or both] caused by [insert: "sudden accidental releases" or "nonsudden accidental releases" or both] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating [an] underground storage tank[s].

Underground storage tanks at the following facilities are assured by this financial test [List for each facility: the name and address of the facility where tanks assured by this financial test are located. If separate mechanisms or combinations of mechanisms are being used to assure any of the tanks at this facility, list each tank assured by this financial test by the tank identification number provided in the notification submitted pursuant to section 342L-30, Hawaii Revised Statutes or 40 Code of Federal Regulations section 280.22 or in the permit applications submitted under sections 11-281-24 and 11-281-26, Hawaii Administrative Rules.]

This owner or operator has not received an adverse opinion, or a disclaimer of opinion from an independent auditor on its financial statements for the latest completed fiscal year. Any outstanding issues of general obligation or revenue bonds, if rated, have a Moody's rating of Aaa, Aa, A, or Baa or a Standard and Poor's rating of AAA, AA, A, or BBB; if rated by both firms, the bonds have a Moody's rating of Aaa, Aa, A or Baa and a Standard and Poor's rating of AAA, AA, A, or BBB.

WORKSHEET FOR MUNICIPAL FINANCIAL TEST

PART I: BASIC INFORMATION

1. Total Revenues

- Revenues (dollars a. Value of revenues excludes liquidation of investments and issuance of debt. Value includes all general fund operating and nonoperating revenues, as well as all revenues from all other governmental funds including enterprise, debt service, capital projects, and special revenues, but excluding revenues to funds held in a trust or agency capacity.
- Subtract interfund transfers (dollars) b.
- Total Revenues (dollars) C.

2. Total Expenditures

- Expenditures (dollars) a. Value consists of the sum of general fund operating and non-operating expenditures including interest payments on debt, payments for retirement of debt principal, and total expenditures from all other governmental funds including enterprise, debt service, capital projects, and special revenues.
- Subtract interfund transfers (dollars) b.
- c. Total Expenditures (dollars)

3. Local Revenues

- Total Revenues (from 1c) (dollars) a.
- Subtract total intergovernmental transfers b. (dollars)
- Local Revenues (dollars) C.

4. Debt Service

- Interest and fiscal charges (dollars) a.
- Add debt retirement (dollars) b.
- c. Total Debt Service (dollars)

5. Total Funds (Dollars) (Sum of amounts held as cash and investment securities from all funds, excluding amounts held for employee retirement funds, agency funds, and trust funds)

	6. Population (Persons)
	PART II: APPLICATION OF TEST
a. o. d. e. f.	7. Total Revenues to Population Total Revenues (from 1c) Population (from 6) Divide 7a by 7b Subtract 417 Divide by 5,212 Multiply by 4.095
a. b. c. d. e. f.	8. Total Expenses to Population Total Expenses (from 2c) Population (from 6) Divide 8a by 8b Subtract 524 Divide by 5,401 Multiply by 4.095
a. o. c. d. e. f.	9. Local Revenues to Total Revenues Local Revenues (from 3c) Total Revenues (from 1c) Divide 9a by 9b Subtract 0.695 Divide by 0.205 Multiply by 2.840
a. o. c. d. e. f.	10. Debt Service to Population Debt Service (from 4d) Population (from 6) Divide 10a by 10b Subtract 51 Divide by 1,038 Multiply by -1.866
a. o. c. d. e. f.	11. Debt Service to Total Revenues Debt Service (from 4d) Total Revenues (from 1c) Divide 11a by 11b Subtract 0.068 Divide by 0.259 Multiply by -3.533

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a. b. c. d. e. f.	12. Total Revenues to Total Expenses Total Revenues (from 1c) Total Expenses (from 2c) Divide 12a by 12b Subtract .910 Divide by 0.899 Multiply by 3.458
a. b. c. d. e. f.	13. Funds Balance to Total Revenues Total Funds (from 5) Total Revenues (from 1c) Divide 13a by 13b Subtract 0.891 Divide by 9.156 Multiply by 3.270
a. b. c. d. e. f.	14. Funds Balance to Total Expenses Total Funds (from 5) Total Expenses (from 2c) Divide 14a by 14b Subtract 0.866 Divide by 6.409 Multiply by 3.270
a. b. c. d. e. f.	15. Total Funds to Population Total Funds (from 5) Population (from 6) Divide 15a by 15b Subtract 270 Divide by 4,548 Multiply by 1.866
	I hereby certify that the financial index shown on line 16 of the worksheet is greater than zero and that the wording of this letter is identical to the wording specified in subsection 11-281-104(c), Hawaii Administrative Rules, as such rules were constituted on the date shown immediately below. [Date] [Signature] [Name]

[Title]

- (d) If a local government owner or operator using the test to provide financial assurance finds that it no longer meets the requirements of the financial test based on the year-end financial statements, the owner or operator must obtain alternative coverage within one hundred fifty days of the end of the year for which financial statements have been prepared.
- (e) The director may require reports of financial condition at any time from the local government owner or operator. If the director finds, on the basis of such reports or other information, that the local government owner or operator no longer meets the financial test requirements of subsections (b) and (c), the owner or operator must obtain alternate coverage within thirty days after notification of such a finding.
- (f) If the local government owner or operator fails to obtain alternate assurance within one hundred fifty days of finding that it no longer meets the requirements of the financial test based on the yearend financial statements or within thirty days of notification by the director that it no longer meets the requirements of the financial test, the owner or operator must notify the director of such failure within ten days. [Eff] (Auth: HRS §§342L-3, 342L-36) (Imp: 40 C.F.R. §280.105)

§11-281-105 (reserved)

- §11-281-106 Local government guarantee. (a) A local government owner or operator may satisfy the requirements of section 11-281-94 by obtaining a guarantee that conforms to the requirements of this section. The guarantor must be a local government having a "substantial governmental relationship" with the owner or operator and issuing the guarantee as an act incident to that relationship. A local government acting as the guarantor must:
 - (1) Demonstrate that it meets the bond rating test requirements of section 11-281-103 and

- deliver a copy of the chief financial officer's letter as contained in section 11-281-103(c) to the local government owner or operator;
- (2) Demonstrate that it meets the worksheet test requirements of section 11-281-104 and deliver a copy of the chief financial officer's letter as contained in section 11-281-104(c) to the local government owner or operator; or
- (3) Demonstrate that it meets the local government fund requirements of section 11-281-107(a), or section 11-74-107(b) or section 11-281-107(c), and deliver a copy of the chief financial officer's letter as contained in section 11-281-107 to the local government owner or operator.
- (b) If the local government guarantor is unable to demonstrate financial assurance under any of section 11-281-103, section 11-281-104, section 11-281-107(a), section 11-281-107(b), or section 11-281-107(c), at the end of the financial reporting year, the guarantor shall send by certified mail, before cancellation or nonrenewal of the guarantee, notice to the owner or operator. The guarantee will terminate no less than 120 days after the date the owner or operator receives the notification, as evidenced by the return receipt. The owner or operator must obtain alternative coverage as specified in section 11-281-114(c).
- (c) The guarantee agreement must be worded as specified in subsection (d) or (e), depending on which of the following alternative guarantee arrangements is selected:
 - (1) If, in the default or incapacity of the owner or operator, the guarantor guarantees to fund a standby trust as directed by the director, the guarantee shall be worded as specified in subsection (d).
 - (2) If, in the default or incapacity of the owner or operator, the guarantor guarantees to make payments as directed by the director for taking corrective action or compensating third parties for bodily injury and property damage, the guarantee shall be worded as

specified in subsection (e).

(d) If the guarantor is a local government, the local government guarantee with standby trust must be worded exactly as follows, except that instructions in brackets are to be replaced with relevant information and the brackets deleted:

Local Government Guarantee With Standby Trust Made By a Local Government

Guarantee made this [date] by [name of guaranteeing entity], a local government organized under the laws of Hawaii, herein referred to as guarantor, to the Hawaii department of health and to any and all third parties, and obliges, on behalf of [local government owner or operator].

Recitals

- (1) Guarantor meets or exceeds [select one: the local government bond rating test requirements of section 11-281-103, Hawaii Administrative Rules, the local government financial test requirements of section 11-281-104, Hawaii Administrative Rules, or the local government fund under sections 11-281-107(a), 11-281-107(b) or 11-281-107(c), Hawaii Administrative Rules.]
- (2) [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to section 342L-30, Hawaii Revised Statutes or 40 Code of Federal Regulations section 280.22 or in the permit applications submitted under sections 11-281-24 and 11-281-26, Hawaii

Administrative Rules, and the name and address of the facility.] This guarantee satisfies subchapter 9 of chapter 11-281, Hawaii Administrative Rules, requirements for assuring funding for [insert: "taking corrective action" or "compensating third parties for bodily injury and property damage caused by " or both either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank(s) in the amount of [insert dollar amount] per occurrence and [insert: dollar amount] annual aggregate.

(3) Incident to our substantial governmental relationship with [local government owner or operator], guarantor guarantees to the Hawaii department of health and to any and all third parties that:

In the event that [local government owner or operator] fails to provide alternative coverage within sixty days after receipt of a notice of cancellation of this guarantee and the director of the hawaii department of health has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon instructions from the director shall fund a standby trust fund in accordance with the provisions of section 11-281-112, Hawaii Administrative Rules, in an amount not to exceed the coverage limits specified above.

In the event that the director determines that [local government owner or operator] has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with subchapter 7 of chapter 11-281 of Hawaii Administrative Rules, the guarantor upon written instructions from the

director shall fund a standby trust fund in accordance with the provisions of section 11-281-112, Hawaii Administrative Rules, in an amount not to exceed the coverage limits specified above.

If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" or "nonsudden" or both] accidental releases arising from the operation of the aboveidentified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon written instructions from the director, shall fund a standby trust in accordance with the provisions of section 11-281-112, Hawaii Administrative Rules, to satisfy such judgment(s), award(s), or settlement agreement(s) up to the limits of coverage specified above.

- (4) Guarantor agrees that, if at the end of any fiscal year before cancellation of this guarantee, the guarantor fails to meet or exceed the requirements of the financial responsibility mechanism specified in paragraph (1), guarantor shall send within one hundred twenty days of such failure, by certified mail, notice to [local government owner or operator], as evidenced by the return receipt.
- (5) Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 {Bankruptcy}, U.S. Code naming guarantor as debtor, within ten days after commencement of the proceeding.
- (6) Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to chapter 11-281, Hawaii Administrative Rules.
- (7) Guarantor agrees to remain bound under

this guarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of subchapter 9 of chapter 11-281 of Hawaii Administrative Rules, for the above identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than one hundred twenty days after receipt of such notice by [owner or operator], as evidenced by the return receipt.

- (8) The guarantor's obligation does not apply to any of the following:
- (a) Any obligation of [local government owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;
- (b) Bodily injury to an employee of [insert: local government owner or operator] arising from, and in the course of, employment by [insert: local government owner or operator];
- (c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;
- (d) Property damage to any property owner, rented, loaded to, in the care, custody, or control of, or occupied by [insert: local government owner or operator] that is not the direct result of a release from a petroleum underground storage tank;
- (e) Bodily damage or property damage for which [insert: owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of section 11-281-94, Hawaii Administrative Rules.

(9) Guarantor expressly waives notice of acceptance of this guarantee by the Hawaii department of health, by any or all third parties, or by [local government owner or operator].

I hereby certify that the wording of this guarantee is identical to the wording specified in section 11-281-106, Hawaii Administrative Rules, as such rules were constituted on the effective date shown immediately below.

Effective date:

[Name of guarantor]
[Authorized signature for guarantor]
[Name of person signing]
[Title of person signing]
Signature of witness or notary:

(e) If the guarantor is a local government, the local government guarantee without standby trust must be worded exactly as follows, except that instructions in brackets are to be replaced with relevant information and the brackets deleted:

Local Government Guarantee Without Standby Trust Made by a Local Government

Guarantee made this [date] by [name of guaranteeing entity], a local government organized under the laws of Hawaii, herein referred to as guarantor, to the Hawaii department of health and to any and all third parties, and obliges, on behalf of [local government owner or operator].

Recitals

(1) Guarantor meets or exceeds [select one: the local government bond rating test requirements of section 11-281-103, Hawaii Administrative Rules, the local government financial test requirements of section 11-281-104, Hawaii Administrative Rules, or the local governmental fund under section 11-281-

107(a), 11-281-107(b) or 11-281-107(c), Hawaii Administrative Rules.

- (2) [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to section 342L-30, Hawaii Revised Statutes or 40 Code of Federal Regulations section 280.22 or in the permit applications submitted under sections 11-281-24 and 11-281-26, Hawaii Administrative Rules, and the name and address of the facility.] This quarantee satisfies subchapter 9 of chapter 11-281 of Hawaii Administrative Rules, requirements for assuring funding for [insert: "taking corrective action" or "compensating third parties for bodily injury and property damage caused by or both either sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank(s) in the amount of [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate.
- (3) Incident to our substantial governmental relationship with [local government owner or operator], guarantor guarantees to the Hawaii department of health and to any and all third parties and obliges that:

In the event that [local government owner or operator] fails to provide alternative coverage within sixty days after receipt of a notice of cancellation of this quarantee and the Hawaii director of health has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon written instructions from the director shall make funds available to pay for corrective actions and compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

In the event that the director determines that [local government owner or operator] has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with subchapter 7 of chapter 11-281 of Hawaii Administrative Rules, the guarantor upon written instructions from the director shall make funds available to pay for corrective actions in an amount not to exceed the coverage limits specified above.

If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" or "nonsudden" or both] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon written instructions from the director, shall make funds available to compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

(4) Guarantor agrees that if at the end of any fiscal year before cancellation of this guarantee, the guarantor fails to meet or exceed the requirements of the financial responsibility mechanism specified in paragraph (1), guarantor shall send within 120 days of such failure, by certified mail, notice to [local government owner or operator], as evidenced by the return

receipt.

- (5) Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code naming guarantor as debtor, within ten days after commencement of the proceeding.
- (6) Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to chapter 11-281, Hawaii Administrative Rules.
- (7) Guarantor agrees to remain bound under this quarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of subchapter 9 of chapter 11-281 of Hawaii Administrative Rules, for the above identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than one hundred twenty days after receipt of such notice by [owner or operator], as evidenced by the return receipt. If notified of a probable release, the guarantor agrees to remain bound to the terms of this guarantee for all charges arising from the release, up to the coverage limits specified above, notwithstanding the cancellation of the guarantee with respect to future releases.
- (8) The guarantor's obligation does not apply to any of the following:
- (a) Any obligation of [local government owner or operator] under a workers' compensation disability benefits, or unemployment compensation law or other similar law;
- (b) Bodily injury to an employee of [insert: local government owner or operator] arising from and in the course of, employment by [insert: local government owner or operator];

- (c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;
- (d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert: local government owner or operator] that is not the direct result of a release from a petroleum underground storage tank;
- (e) Bodily damage or property damage for which [insert: owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of section 11-281-94, Hawaii Administrative Rules.
- (9) Guarantor expressly waives notice of acceptance of this guarantee by the Hawaii department of health, by any or all third parties, or by [local government owner or operator].

I hereby certify that the wording of this guarantee is identical to the wording specified in section 11-281-106, Hawaii Administrative Rules, as such rules were constituted on the effective date shown immediately below.

Effective date:

[Name of quarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

[Eff] (Auth: HRS §§ 342L-36) (Imp: 40 C.F.R. § 280.106)

§11-281-107 <u>Local government fund</u>. A local government owner or operator may satisfy the requirements of section 11-281-94 by establishing a

dedicated fund account that conforms to the requirements of this section. Except as specified in subsection (b), a dedicated fund may not be commingled with other funds or otherwise used in normal operations. A dedicated fund will be considered eligible if it meets one of the following requirements:

- (a) The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance, or order to pay for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks or tank systems and is funded for the full amount of coverage required under section 11-281-94, or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining coverage; or
- (b) The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance, or order as a contingency fund for general emergencies, including taking corrective action and compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks or tank systems, and is funded for five times the full amount of coverage required under section 11-281-94, or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining coverage. the fund is funded for less than five times the amount of coverage required under section 11-281-94, the amount of financial responsibility demonstrated by the fund may not exceed one-fifth the amount in the fund; or
- (c) The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance or order to pay for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks or tank systems. A payment is made to the fund once every year for seven years until the fund is fully-funded. This seven year period is hereafter referred to as the "pay-in-period." The amount of each

payment must be determined by this formula:

$$\frac{\text{TF} - \text{CF}}{\text{V}}$$

Where TF is the total required financial assurance for the owner or operator, CF is the current amount in the fund, and Y is the number of years remaining in the pay-in-period, and;

- (1) The local government owner or operator has available bonding authority, approved through voter referendum (if such approval is necessary prior to the issuance of bonds), for an amount equal to the difference between the required amount of coverage and the amount held in the dedicated fund. This bonding authority shall be available for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks or tank systems, or
- (2) The local government owner or operator has a letter signed by the state attorney general stating that the use of the bonding authority will not increase the local government's debt beyond the legal debt ceilings established by the relevant state laws. The letter must also state that prior voter approval is not necessary before use of the bonding authority.
- (d) To demonstrate that it meets the requirements of the local government fund, the chief financial officer of the local government owner or operator, or guarantor or both must sign a letter worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

LETTER FROM CHIEF FINANCIAL OFFICER

I am the chief financial officer of [insert: name and address of local government owner or operator, or guarantor.] This letter is in support of the use of the local government fund mechanism do demonstrate financial responsibility for [insert: "taking

corrective action" or "compensating third parties for bodily injury and property damage" or both] caused by [insert: "sudden accidental releases" or "nonsudden accidental releases" or both] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an) underground storage tank(s).

Underground storage tanks at the following facilities are assured by this local government fund mechanism: (List for each facility: the name and address of the facility where tanks are assured by the local government fund].

[Insert: "The local government fund is funded for the full amount of coverage required under section 11-281-94, Hawaii Administrative Rules, or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining coverage." or "The local government fund is funded for ten times the full amount of coverage required under section 11-281-94, Hawaii Administrative Rules, or funded for part of the required amount of coverage and used in conjunction with other mechanism(s) that provide the remaining coverage." or "A payment is made to the fund once every year for seven years until the fund is fully-funded and [name of local government owner or operator] has available bonding authority, approved through voter referendum, of an amount equal to the difference between the required amount of coverage and the amount held in the dedicated fund" or "A payment is made to the fund once every year for seven years until the fund is fullyfunded and I have attached a letter signed by the Hawaii attorney general stating that (1) the use of the bonding authority will not increase the local government's debt beyond the legal debt ceilings established by the relevant state laws and (2) that prior voter approval is not necessary before use of the bonding authority"].

The details of the local government fund are as follows:

Amount in Fund (market value of fund at close of last fiscal year):

[If fund balance is incrementally funded as specified in section 11-281-107(c), Hawaii Administrative Rules,

insert:

Amount added to fund in the most recently completed fiscal year:

Number of years remaining in the pay-in period:

A copy of the state constitutional provision, or local government statute, charter, ordinance or order dedicating the fund is attached.

I hereby certify that the wording of this letter is identical to the wording specified in section 11-281-107, Hawaii Administrative Rules as such regulations were constituted on the date shown immediately below.

[Date]

[Signature]

[Name]

[Title]

[Eff] (Auth: HRS §§342L-3, 342L-36)

(Imp: 40 C.F.R. §280.107)

- §11-281-108 Substitution of financial assurance mechanisms by owner or operator. (a) An owner or operator may substitute any alternate financial assurance mechanisms as specified in this subchapter, provided that at all times the owner or operator maintains an effective financial assurance mechanism or combination of mechanisms that satisfies the requirements of section 11-281-94.
- §11-281-109 <u>Cancellation or nonrenewal by a provider of financial assurance</u>. (a) Except as otherwise provided, a provider of financial assurance may cancel or fail to renew an assurance mechanism by sending a notice of termination by certified mail to the owner or operator.
 - (1) Termination of a local government guarantee, a guarantee, a surety bond, or a letter of

- credit may not occur until one hundred twenty days after the date on which the owner or operator receives the notice of termination, as evidenced by the return receipt.
- (2) Termination of insurance or risk retention coverage, except for non-payment or misrepresentation by the insured, may not occur until sixty days after the date on which the owner or operator receives the notice of termination, as evidenced by the return receipt. Termination for non-payment of premium or misrepresentation by the insured may not occur until a minimum of ten days after the date on which the owner or operator receives the notice of termination, as evidenced by the return receipt.
- (b) If a provider of financial responsibility cancels or fails to renew for reasons other than incapacity of the provider as specified in section 11-281-114, the owner or operator must obtain alternate coverage as specified in this subchapter within sixty days after receipt of the notice of termination. If the owner or operator fails to obtain alternate coverage within sixty days after receipt of the notice of termination, the owner or operator must notify the director of such failure and submit:
 - (1) The name and address of the provider of financial assurance;
 - (2) The effective date of termination; and
 - (3) The evidence of the financial assurance mechanism subject to the termination maintained in accordance with section 11-281-107(b). [Eff] (Auth: HRS §§342L-3, 324L-36) (Imp: 40 C.F.R. §280.109)
- §11-281-110 Reporting by owner or operator. (a) An owner or operator must submit the appropriate forms listed in section 11-281-111(b) documenting current evidence of financial responsibility to the director:
 - (1) Within thirty days after the owner or operator identifies a release from an UST or tank system required to be reported under section 11-281-64 or 11-281-72;

- (2) If the owner or operator fails to obtain alternate coverage as required by this subchapter, within thirty days after the owner or operator receives notice of:
 - (A) Commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a provider of financial assurance as a debtor,
 - (B) Suspension or revocation of the authority of a provider of financial assurance to issue a financial assurance mechanism,
 - (C) Failure of a guarantor to meet the requirements of the financial test,
 - (D) Other incapacity of a provider of financial assurance; or
- (3) As required by sections 11-281-96(g) and 11-281-109(b).
- (b) An owner or operator must certify compliance with the financial responsibility requirements of this subchapter as specified in the notification form submitted pursuant to section 342L-30, Hawaii Revised Statutes, section 11-281-21, or the permit applications under sections 11-281-24 and 11-281-26 when notifying the director of the installation of an UST or tank system.
- §11-281-111 Recordkeeping. (a) Owners or operators must maintain evidence of all financial assurance mechanisms used to demonstrate financial responsibility under this subchapter for an UST or tank system until released from the requirements of this subchapter under section 11-281-113. An owner or operator must maintain such evidence at the UST or tank system site or the owner's or operator's place of work. Records maintained off-site must be made available upon

request of the director.

- (b) An owner or operator must maintain the following types of evidence of financial responsibility:
 - (1) An owner or operator using an assurance mechanism specified in section 11-281-96 through 11-281-100, section 11-281-101, or sections 11-281-103 through 11-281-107, must maintain a copy of the instrument worded as specified.
 - (2) An owner or operator using a financial test or guarantee, or a local government financial test or a local government guarantee supported by the local government financial test must maintain a copy of the chief financial officer's letter based on year-end financial statements for the most recent completed financial reporting year. Such evidence must be on file no later than one hundred twenty days after the close of the financial reporting year.
 - (3) An owner or operator using a guarantee, surety bond, or letter of credit must maintain a copy of the signed standby trust fund agreement and copies of any amendments to the agreement.
 - (4) A local government owner or operator using a local government guarantee under section 11-281-106(d) must maintain a copy of the signed standby trust fund agreement and copies of any amendments to the agreement.
 - (5) A local government owner or operator using the local government bond rating test under section 11-281-103 must maintain a copy of its bond rating published within the last twelve months by Moody's or Standard & Poor's.
 - (6) A local government owner or operator using the local government guarantee under section 11-281-106, where the guarantor's demonstration of financial responsibility relies on the bond rating test under section 11-281-103 must maintain a copy of the guarantor's bond rating published within the

- last twelve months by Moody's or Standard & Poor's.
- (7) An owner or operator using an insurance policy or risk retention group coverage must maintain a copy of the signed insurance policy or risk retention group coverage policy, with the endorsement or certificate of insurance and any amendments to the agreements.
- (8) An owner or operator using a local government fund under section 11-281-107 must maintain the following documents:
 - (A) A copy of the state constitutional provision or local government statute, charter, ordinance, or order dedicating the fund, and
 - (B) Year-end financial statements for the most recent completed financial reporting year showing the amount in the fund. If the fund is established under section 11-281-107 using incremental funding backed by bonding authority, the financial statements must show the previous year's balance, the amount of funding during the year, and the closing balance in the fund.
 - (C) If the fund is established under section 11-281-107 using incremental funding backed by bonding authority, the owner or operator must also maintain documentation of the required bonding authority, including either the results of a voter referendum (under section 11-281-107, or attestation by the state attorney general as specified under section 11-281-107).
- (9) A local government owner or operator using the local government guarantee supported by the local government fund must maintain a copy of the guarantor's year-end financial statements for the most recent completed financial reporting year showing the amount of the fund.
- (10) (A) An owner or operator using an assurance

mechanism specified in sections 11-281-96 through 11-281-107 must maintain an updated copy of a certification of financial responsibility worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Certification of Financial Responsibility

[Owner or operator] hereby certifies that it is in compliance with the requirements of subchapter 9 of chapter 11-281 of the Hawaii Administrative Rules.

The financial assurance mechanism(s) used to demonstrate financial responsibility under subchapter 9 of chapter 11-281 of the Hawaii Administrative Rules, is (are) as follows:

[For each mechanism, list the type of mechanism, name of issuer, mechanism number (if applicable), amount of coverage, effective period of coverage and whether the mechanism covers "taking corrective action" or "compensating third parties for bodily injury and property damage caused by " or both either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases."] [Signature of owner or operator] [Name of owner or operator] [Title] [Date] [Signature of witness or notary] [Name of witness or notary] [Date]

(B) The owner or operator must update this certification whenever the

financial assurance mechanism(s) used to demonstrate financial responsibility change(s). [Eff] (Auth: HRS §§342L-3, 342L-36) (Imp: 40 C.F.R. §280.111)

§11-281-112 Drawing on financial assurance mechanisms.

(a) Except as specified in subsection (d), the director shall require the guarantor, surety, or institution issuing a letter of credit to place the amount of funds stipulated by the director, up to the limit of funds provided by the financial assurance mechanism, into the standby trust if:

- (1) (A) The owner or operator fails to establish alternate financial assurance within sixty days after receiving notice of cancellation of the guarantee, surety bond, letter of credit, or, as applicable, other financial assurance mechanism; and
 - (B) The director determines or suspects that a release from an UST or tank system covered by the mechanism has occurred and so notifies the owner or operator or the owner or operator has notified the director pursuant to subchapter 6 or 7 of a release from an UST or tank system covered by the mechanism; or
- (2) The conditions of paragraph (b)(1) or subparagraphs (b)(2)(A) or (b)(2)(B) are satisfied.
- (b) The director may draw on a standby trust fund when:
 - (1) The director makes a final determination that a release has occurred and immediate or long-term corrective action for the release is needed, and the owner or operator, after appropriate notice and opportunity to comply, has not conducted release response action as required under subchapter 7; or
 - (2) The director has received either:
 - (A) Certification from the owner or operator

and the third-party liability claimant(s) and from attorneys representing the owner or operator and the third-party liability claimant(s) that a third-party liability claim should be paid. The certification must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Certification of Valid Claim

The undersigned, as principals and as legal representatives of [insert: owner or operator] and [insert: name and address of third-party claimant], hereby certify that the claim of bodily injury [and/or] property damage caused by an accidental release arising from operating [owner's or operator's] underground storage tank should be paid in the amount of \$[]. [Signatures] Owner or Operator Attorney for Owner or Operator (Notary) Date [Signatures] Claimant(s) Attorney(s) for Claimant(s) (Notary) Date

or,

(B) A valid final court order establishing a judgment against the owner or operator for bodily injury or property damage caused by an accidental release from an underground storage tank or tank system covered by financial assurance under this subchapter and the director determines that the owner or operator has not satisfied the judgment.

- (c) If the director determines that the amount of corrective action costs and third-party liability claims eligible for payment under subsection (b) may exceed the balance of the standby trust fund and the obligation of the provider of financial assurance, the first priority for payment shall be corrective action costs necessary to protect human health and the environment. The director shall pay third-party liability claims in the order in which the director receives certifications under subparagraph (b)(2)(A), and valid court orders under subparagraph (b)(2)(B).
- §11-281-113 Release from financial responsibility. An owner or operator is no longer required to maintain financial responsibility under this subchapter for an UST or tank system after the UST or tank system has been properly and permanently closed or, if release response action is required, after the release response action has been completed and the UST or tank system has been properly and permanently closed as required by subchapter 8. [Eff] (Auth: HRS §§342L-3, 342L-36) (Imp: 40 C.F.R. §280.113)
- §11-281-114 Bankruptcy or other incapacity of owner or operator or provider of financial assurance.

 (a) Within ten days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming an owner or operator as debtor, the owner or operator must notify the director by certified mail of such commencement and submit the appropriate forms listed in section 11-281-111(b) documenting current financial responsibility.
- (b) Within ten days after commencement of a voluntary or involuntary proceeding under Title 11

- (Bankruptcy), U.S. Code, naming a guarantor providing financial assurance as debtor, such guarantor must notify the owner or operator by certified mail of such commencement as required under the terms of the guarantee specified in section 11-281-97.
- (c) Within ten days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a local government owner or operator as debtor, the local government owner or operator must notify the director by certified mail of such commencement and submit the appropriate forms listed in section 11-281-111(b) documenting current financial responsibility.
- (d) Within ten days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a guarantor providing a local government financial assurance as debtor, such guarantor must notify the local government owner or operator by certified mail of such commencement as required under the terms of the guarantee specified in section 11-281-106.
- (e) An owner or operator who obtains financial assurance by a mechanism other than the financial test of self-insurance will be deemed to be without the required financial assurance in the event of a bankruptcy or incapacity of its provider of financial assurance, or a suspension or revocation of the authority of the provider of financial assurance to issue a guarantee, insurance policy, risk retention group coverage policy, surety bond, or letter of credit. The owner or operator must obtain alternate financial assurance as specified in this subchapter within thirty days after receiving notice of such an event. If the owner or operator does not obtain alternate coverage within thirty days after such notification, the owner or operator must notify the director. [Eff] (Auth: HRS §§342L-3, 342L-36) (Imp: 40 C.F.R. §280.114)
- §11-281-115 Replenishment of guarantees, letters of credit, or surety bonds. (a) If at any time after a standby trust is funded upon the instruction of the director with funds drawn from a guarantee, local

government guarantee with standby trust, letter of credit, or surety bond, and the amount in the standby trust is reduced below the full amount of coverage required, the owner or operator shall by the anniversary date of the financial mechanism from which the funds were drawn:

- (1) Replenish the value of financial assurance to equal the full amount of coverage required, or
- (2) Acquire another financial assurance mechanism for the amount by which funds in the standby trust have been reduced.

§§11-281-116 to 11-281-120 (Reserved)

SUBCHAPTER 10

FIELD CITATIONS

§11-281-122 Applicability. (a) The rules of this subchapter shall apply to those violations of chapter 342L, HRS, and this chapter that the

department, in its discretion, deems appropriate for resolution through the issuance of a field citation.

- (b) The field citation is an offer to settle an administrative case that the department shall withdraw if the owner or operator declines to accept the department's offer to settle, in which case the department may bring a formal administrative action under Section 342L-8(a), HRS. [Eff]

 (Auth: HRS §342L-3) (Imp: HRS §342L-3)
- §11-281-123 <u>Issuance and contents of a field</u> citation. (a) In addition to any other remedy provided by law, owners or operators who violate any provision of chapter 342L, HRS or this chapter may be subject to a field citation.
- (b) Any authorized employee of the department may issue a field citation to an owner or operator.
- (c) A field citation issued pursuant to this
 section must:
 - (1) Be in the form prescribed by the department (see Appendix VII entitled "Field Citation/Settlement Agreement", dated June 1999, which is made a part of this chapter and attached at the end of this chapter); and
 - (2) Contain a notice of citation and a field citation order and settlement agreement.
- (d) The Field Citation Order/Settlement Agreement portion of the field citation is not effective unless it is signed by the owner or operator and by the director. Approval by the director is in the director's sole discretion. [Eff]

 (Auth: HRS §342L-3) (Imp: HRS §342L-3)
- §11-281-124 Notice of citation. (a) The notice of citation shall:
 - (1) Identify the provision alleged to have been violated;
 - (2) Contain a brief description of the alleged violation;
 - (3) Set forth the settlement amount; and
 - (4) Be signed by the department employee who issues the field citation and the owner,

operator, or on-site representative.

- (b) A penalty amount for settlement, specified in section 11-281-128, may be imposed for a violation of any of the provisions set forth in that section. [Eff] (Auth: HRS §342L-3) (Imp: HRS §342L-3)
- §11-281-125 Field citation order and settlement agreement.

 (a) By signing the settlement agreement, the owner or operator agrees not to challenge the Notice of Citation and Field Citation Order and accepts the settlement agreement. Subsequent signature by the director constitutes acceptance by the director of the settlement agreement.
- (b) The owner or operator signing the settlement agreement waives the right to a contested case hearing pursuant to chapter 91, HRS. [Eff]

 (Auth: HRS §342L-3) (Imp: HRS §342L-3)
- §11-281-126 Correcting violations; paying the settlement amount; and signing the settlement agreement.

 (a) In order to settle the Notice of Citation and Field Citation Order, the owner or operator must correct the violations, pay the settlement amount, and sign and return the settlement agreement within thirty calendar days of the issuance of the field citation.
- (b) The department, at its discretion, may grant one extension for the owner or operator to correct the violations, pay the settlement amount, and sign and return the settlement agreement. An extension of no more than thirty calendar days from the expiration of the initial thirty calendar days will be granted provided that within the initial thirty days:
 - (1) The owner or operator submits to the department a written request for an extension;
 - (2) The owner or operator satisfactorily demonstrates to the department that there are factors beyond the control of the owner or operator that necessitate an extension; and
 - (3) The department believes that compliance will be achieved within the period of the

extension.

- (c) The department may consider granting an additional extension to the first extension if the owner or operator demonstrates to the satisfaction of the department that a force majeure event has occurred. Force majeure is defined in section 11-281-03.
- (d) If the owner or operator does not correct the violations, pay the settlement amount, and sign and return the settlement agreement within the initial thirty days or within an extension period, the field citation is automatically withdrawn and, pursuant to section 342L-8, HRS, the department may proceed with a formal enforcement action.
- (e) Failure to return the settlement agreement and pay the settlement amount within the time allowed does not relieve the owner or operator of the responsibility to comply fully with the provisions of this chapter and chapter 342L, HRS, including correcting the violations that have been specifically identified in the field citation. [Eff] (Auth: HRS §342L-3) (Imp: HRS §342L-3)
- §11-281-127 Methods of payment. (a) Payment of a settlement penalty amount imposed pursuant to section 11-281-125 must be made by cashier's or personal check made payable to the "State of Hawaii." The number of the field citation shall be written on the check.
- (b) The check and the signed settlement agreement shall be submitted to the Hawaii Department of Health, Solid and Hazardous Waste Branch, Underground Storage Tank Section, 919 Ala Moana Boulevard, Room 212, Honolulu, Hawaii 96814. [Eff] (Auth: HRS §342L-3) (Imp: HRS §342L-3)
- §11-281-128 Field citation penalty amounts for settlement. The penalties that may be assessed for settlement of a field citation are as listed in Appendix VIII entitled "Field Citation Penalty Amounts", dated June 1999, which is made a part of this chapter and attached at the end of this chapter. [Eff] (Auth: HRS §342L-3) (Imp: HRS §342L-3)

§§11-281-129 to 11-281-130 (Reserved)

SUBCHAPTER 11

APPENDICES

- §11-281-131 <u>Appendices</u>. Appendices I through VIII are made part of this chapter. These Appendices are entitled:
- Appendix I -- Notification for Underground Storage Tanks, June 1999
- Appendix II -- Application for an Underground Storage Tank Permit, June 1999
- Appendix III Certification of Underground Storage Tank Installation, June 1999
- Appendix IV -- Application for Renewal of an Underground Storage Tank Permit, June 1999
- Appendix V -- Application for Transfer of an Underground Storage Tank Permit, June 1999
- Appendix VI -- Application for an Underground Storage Tank Variance, June 1999
- Appendix VII --Field Citation/Settlement Agreement, June 1999
- Appendix VIII--Field Citation Penalty Amounts, June 1999
- [Eff] (Auth: HRS §342L-3) (Imp: HRS §342L-3, 342L-4, 342L-6, 342L-30, 342L-31, 40 C.F.R. §280.22)

DEPARTMENT OF HEALTH

Chapter 11-281, Hawaii	Administrative Rules, on
the Summary Page dated	, was adopted on
, following p	public hearings held on
November 15, 16, 22, and 23	, 1999 and December 1, 1999,
after public notice was give	en in the Hawaii State &
County Public Notices publis	shed statewide on October
18, 1999.	

The amendments take effect ten days after filing with the Office of the Lieutenant Governor.

BRUCE S. ANDERSON, Ph.D., M.P.H. Director of Health

APPROVED AS TO FORM:

Adina L.K. Cunningham Deputy Attorney General

Benjamin J. Cayetano Governor

Date:

State of Hawaii

Filed

APPENDIX I--NOTIFICATION FOR UNDERGROUND STORAGE TANKS Form No. I (6/99) Solid and Hazardous Waste Branch, 919 Ala Moana Blvd., Room 212, Honolulu, Hawaii 96814 REASON FOR NOTIFICATION (Check all that apply) **New Notification** Change of Owner ____ Change of Operator ____ UST Closure (temporary & permanent) Modification. Specify Other: STATE USE ONLY Facility ID Number Date Received Date Entered into Computer Data Entry Clerk Initials Please type or print in ink all items except "signature" in section XIII. This form must be completed for each location containing underground storage tanks. For tanks requiring a permit use Form #'s II and III. I. LOCATION OF TANKS(S) Facility Name or Company Site identifiers, as applicable Location Contact Location Address (P.O. Box not acceptable) Location Phone # (w/ area code) Fax # (w/ area code) Zip Code Island City Tax Map Key # II. CONTACT PERSON IN CHARGE OF TANK(S) Job Title Name Address Fax # (with area code) Phone # (with area code) III. OWNER OF TANK(S) (If same as Section I, check here Owner Name (Corporation, Individual, Public Agency, or Other Entity) Mailing Address City Zip Code Phone # (w/ area code) IV. OPERATOR OF TANK(S) (If same as Section I, check here _ Operator Name (Corporation, Individual, Public Agency, or Other Entity Mailing Address Zip Code Phone # (w/ area code) Fax # (w/ area code) City V. TYPE OF OWNER Federal Government--Military Federal Government--Non-Military State Government Local Government Marketer Non-Marketer VI. TYPE OF FACILITY (Select the appropriate facility description) Auto Dealership Baseyard ____ Car Rental ____ Cleaner/Laundromat ____ Communication Sites _ Farm ___ Fire Station ___ Gas Station ___ Golf Course ___ Hospital Petroleum Distributor _ Police Station ___ Residential ___ Resort/Hotel _ School Service Centers/Auto Repair/Maintenance ___ Trucking/Transporter ___ Utilities Wastewater Treatment Plants _ _ Wholesaler/Retailer ___ Other (Explain) VII. FINANCIAL RESPONSIBILITY (Check all that apply) Commercial Insurance ____ Risk Retention Group ____ Guarantee ____ Surety Bond Letter of Credit ___ Trust Fund ___ Exempt: State or Federal Agency

Other Method Allowed (Specify)

VIII. DESCRIPTION OF TANK(S) (Complete for each at this location)

Tank Number	Tank No				
1. Status of Tank (Mark only one)					
A. Currently in Use					
B. Temporarily Out of Use (Also complete Section IX)					
C. Permanently Out of Use (Also complete Section IX)					
2. A. Date of Installation (mo./year)					
B. Date of Activity (Modification, Change in owner, etc.) (mo./day/year)					
3. Estimated Total Capacity (gallons)					
4. Substance Currently or Last Stored in Greatest Quantity by Volume					
A. Gasoline					
B. Diesel					
C. Gasohol					
D. Kerosene					
E. Used Oil					
F. JP-4					
G. Non-Petroleum Hazardous Substance (CERCLA name and/or CAS #)					
H. Mixture of Substances, Please specify					
I. Other, Please specify					
Substance Compatible with Tank and Piping (Y/N)					
6. Tank (Mark all that apply)					
A. Primary Containment Material or Single Walled Tank					
i. Fiberglass reinforced plastic (FRP)					
ii. Steel					
iii. Other, Please specify					
B. Secondary Containment Material					
i. Double walled					
a. FRP					
b. Steel					
c. Other, Please specify					

Π	1	T	T	T	
ii. Other secondary containment					
a. FRP					
b. Other, Please specify					
iii. None					
C. Corrosion Protection (except	l				
FRP tanks)	T				
i. Fiberglass coated steel					
ii. Double walled steel					
iii. Impressed current system					
iv. Sacrificial anode system					
v. Corrosion expert determination					
vi. Other, Please specify					
vii. None					
7. Piping (Mark all that apply)					
A. Primary Containment Material or Single Walled Piping					
i. Rigid fiberglass					
ii. Flex piping					
iii. Steel					
iv. Other					
B. Type of Secondary Containment					
i. Lined trench					
ii. Rigid double walled piping					
iii. Flex double walled piping					
iv. Other					
v. None					
C. Corrosion Protection (except FRP piping)					
i. Fiberglass coated steel					
ii. Impressed current system					
iii. Sacrificial anode system					
iv. Corrosion expert determination					
v. Other, Please specify					
vi. None					
Method of Product Dispensing					
A. Suction					
B. Safe Suction					
	<u> </u>				

C. Pressure										
D. Not Applicable										
Spill and Overfill Protection										
A. Overfill device installed										
i. Automatic shutoff device										
ii. Overfill alarm										
iii. Ball float valve										
B. Spill device installed										
10. Release Detection (Mark all that apply)	TANK	PIPE								
A. Manual tank gauging		NA								
B. Tank tightness testing		NA								
C. Inventory controls		NA								
D. Automatic tank gauging		NA								
E. Vapor monitoring										
F. Groundwater monitoring										
G. Interstitial monitoring										
H. Statistical inventory reconciliation										
I. Automatic line lead detectors										
J. Line tightness testing	NA									
K. Other method approved by the department. Please specify										
11. Tank or Pipe Repaired (Y/N)										
A. Date										
B. Description of repair										

IX. TANK(S) OUT OF USE OR CHANGE IN SERVICE

Tank Number	Tank No				
Closing of Tank A. Estimated date last used (mo./day/year)					
B. Estimated date tank closed (mo./day/year)					
C. Tank was removed from ground					
D. Tank was closed in ground					
E. Tank filled with inert material Describe					
F. Change in service					
Site Assessment Completed (Y/N)					
Evidence of a Leak Detected (Y/N)					

X. FACILITY DRAWING

Include a drawing showing the general layout of the facility. This drawing should be no larger than 11 by 17 inches and preferably to scale. This drawing should show the following:

- A. The property boundaries of the facility;
- B. Identification of streets, roads and nearby bodies of water;
- C. Identification of nearby facilities;
- D. Tax Map Key (TMK) Numbers;
- E. Location of buildings at the facility;
- F. The approximate dimensions of the property boundaries and major buildings;
- G. Location of all USTs (identified by number consistent with the tank numbers in Sections VIII IX), dispenser pumps, and associated pipings; and
- H. Indication of North/South direction.

XI. LOCATION MAP

Include a map showing the location of the tanks with respect to nearby landmarks. The map should indicate roads and landmarks to a level of detail such that the site would be easily located.

XII. CERTIFICATION OF COMPLIANCE FOR MODIFIED TANKS (Complete for each at this location)

			Tank No
 CATION (Read	ICATION (Read and sign after cor	CATION (Read and sign after completing all section	ICATION (Read and sign after completing all sections)

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete.

Name of owner or owner's aut	norized representative (Print or Type)Official Title
SignatureDate Signed	
Status of Signatory (Mar	k as appropriate)
 Corporation: 	principal executive officer
	duly authorized representative
Partnership:	general partner
Sole proprietorship	: proprietor
Government entity:	principal executive officer
	ranking elected official
	duly authorized employee

APPENDIX II--APPLICATION FOR AN UNDERGROUND STORAGE TANK PERMIT Form No. II (6/99)

Solid an	d Hazardous Wa	aste Branch, 919	Ala Moana Blvd., Room 2	12, Honolulu, Hawaii 96814	
Installation and opera			PLICATION (Check all that odification (\$100 except for	at apply) temporary & permanent closure)	
	(ψ.σσ)		TE USE ONLY	composary a pormanent discussory	
Facility ID Number					
Date Received					
Date Entered into Comput					
			Receipt #		
Comments:					
Please type or print in ink for Underground Storage			ctions XIV and XV. For ta	nks not requiring a permit submit Notifica	ition
		I. LOCA	TION OF TANKS(S)		
Facility Name or Company Site	identifiers, as applic	able Contact	Person at Location		
Location Address (P.O. Box not	acceptable	Location Phone #	(w/ area code)	Fax # (w/ area code)	
Location Address (F.O. Box Not	accoptable		(w area eeee)	Tax " (ur aloa sodo)	
City	State	Zip Code Island			
	II.	CONTACT PERS	SON IN CHARGE OF TAN	IK(S)	
Name	Job Title Address	;			
Phone # (with area code)	Fax # (with area co				
Thore # (with area code)	•		If same as Section I, chec	k horo	
	III. OVVINE	IN OF TAINK(S) (ii saine as Section i, chec	K liele)	
Owner Name (Corporation, Indiv	idual, Public Agency	, or Other Entity)			
Mailing Address					
Mailing / taarooo					
City	State	Zip Code	Phone # (w/ area code)	Fax # (w/ area code)	
	IV. OPERA	TOR OF TANK(S)) (If same as Section I, ch	eck here)	
Operator Name (Corporation, Inc	dividual Public Agor	oov or Other Entity)			
Operator Name (Corporation, inc	dividual, Fublic Agel	icy, or Other Entity)			
Mailing Address					
City	State	Zip Code	Phone # (w/ area code)	Fax # (w/ area code)	
			CONTRACTOR	(,	
		٧. ٥	CONTRACTOR		
Company Name		Contact Person			
Mailing Address		Dhone # (w/ ores		da)	
Mailing Address		Phone # (w/ area o	code) Fax # (w/ area co	ue)	
City	State	Zip Code			
		VI. TY	YPE OF OWNER		
Federal Government-	-Military Fe	ederal Governmen		State Government	
Local Government	•	/larketer		lon-Marketer	

	VII. TYPE (_ Airline Auto Dealership Base _ Contractor Farm Fire Station _ Police Station Residential Re _ Trucking/Transporter Utilities Other (Explain)	eyard Car Ro n Gas Station esort/Hotel S	n Golf Cours School Servic	r/Laundromat e Hospital _ ce Centers/Auto Ro	Communication S Petroleum Dist epair/Maintenance	ributor
	VIII. FI _ Self Insurance Commercial Insura _ Trust Fund Exempt: State or Fed	ance Risk Re		Guarantee		_ Letter of Credit
	IX. DESCRI	PTION OF TANK	(S) (Complete for	each at this location	on)	
	Tank Number	Tank No	Tank No	Tank No	Tank No	Tank No
1.	Status of Tank (Mark only one)		_			_
	A. Currently in Use					
	B. Temporarily Out of Use (Also complete Section X)					
	C. Permanently Out of Use (Also complete Section X)					
	D. Installed prior to but not yet brought into use					
	E. To be installed					
2.	Proposed Date of Activity (Installation, Modification, Closure, etc.) (mo./day/year)					
3.	Estimated Total Capacity (gallons)					
4.	Substance Stored					
	A. Gasoline					
	B. Diesel					
	C. Gasohol					
	D. Kerosene					
	E. Used Oil					
	F. JP-4					
	G. Non-Petroleum Hazardous Substance (CERCLA name and/or CAS #)					
	H. Mixture of Substances, Please specify					
	I. Other, Please specify					
5.	Substance Compatible with Tank and Piping (Y/N)					
6.	Tank (Mark all that apply)					
	A. Primary Containment Material			'		
_	i. Fiberglass reinforced plastic (FRP)					
	ii. Steel					
	iii. Other, Please specify					

B. Secondary Containment Material			
i. Double walled			
a. FRP			
b. Steel			
c. Other, Please specify			
ii. Other secondary containment			
a. FRP			
b. Other, Please specify			
C. Corrosion Protection (except FRP tanks)			
i. Fiberglass coated steel			
ii. Double walled steel			
iii. Impressed current system			
iv. Sacrificial anode system			
v. Corrosion expert determination			
vi. Other, Please specify			
7. Piping (Mark all that apply)			
A. Primary Containment Material			
i. Rigid fiberglass			
ii. Flex piping			
iii. Other			
B. Type of Secondary Containment			
i. Lined trench			
ii. Rigid double walled piping			
iii. Flex double walled piping			
iv. Other			
C. Corrosion Protection (except FRP piping)			
i. Fiberglass coated steel			
ii. Impressed current system			
iii. Sacrificial anode system			
iv. Corrosion expert determination			
v. Other, Please specify			
8. Method of Product Dispensing			
A. Suction			
B. Safe Suction	 		
C. Pressure	 		

			1				<u> </u>		1	
D. Not Applicable										
9. Spill and Overfill Prevention					<u></u>				T	
A. Overfill device installed										
i. Automatic shutoff device										
ii. Overfill alarm										
iii. Ball float valve										
B. Spill device installed										
Release Detection (Mark all that apply)	TANK	PIPE	TANK	PIPE	TANK	PIPE	TANK	PIPE	TANK	PIPE
A. Manual tank gauging		NA		NA		NA		NA		NA
B. Tank tightness testing		NA		NA		NA		NA		NA
C. Inventory control		NA		NA		NA		NA		NA
D. Automatic tank gauging		NA		NA		NA		NA		NA
E. Vapor monitoring										
F. Groundwater monitoring										
G. Interstitial monitoring										
H. Statistical inventory reconciliation										
I. Automatic line leak detectors	NA		NA		NA		NA		NA	
J. Line tightness testing	NA		NA		NA		NA		NA	
K. Other method approved by the department. Please specify										
11. Tank or Pipe Repaired (Y/N)										
A. Date										
B. Description of repair										
X. 1	ANK(S) (OUT OF	USE OR	CHANG	E IN SER	VICE	_		_	
Tank Number	Tank N	lo	Tank N	lo	Tank N	lo	Tank N	lo	Tank N	٠
Closing of Tank A. Estimated date last used (mo./day/year)										

rank Number	Tank No				
Closing of Tank A. Estimated date last used (mo./day/year)					
B. Estimated date tank closed (mo./day/year)					
C. Tank was removed from ground					
D. Tank was closed in ground					
E. Tank filled with inert material Describe					
F. Change in service					
2. Site Assessment Completed (Y/N)					
3. Evidence of a Leak Detected (Y/N)					

XI. FACILITY DRAWING

Include a drawing showing the general layout of the facility. This drawing should be no larger than 11 by 17 inches and preferably to scale. This drawing should show the following:

- A. The property boundaries of the facility;
- B. Identification of streets, roads and nearby bodies of water;
- C. Identification of nearby facilities;
- D. Tax Map Key (TMK) Numbers;
- E. Location of buildings at the facility;
- F. The approximate dimensions of the property boundaries and major buildings;
- G. Location of all USTs (identified by number consistent with the tank numbers in Sections IX X), dispenser pumps, and associated pipings; and
- H. Indication of North/South direction.

XII. LOCATION MAP

Include a map showing the location of the facility with respect to nearby landmarks. The map should indicate roads and landmarks to a level of detail such that the site would be easily located.

XIII. NEW OR UPGRADED TANKS

Tank Number	Tank No				
Tank A. Manufacturer/Model					
B. Underwriter Laboratory (UL) #					
C. Leak Detection Permanently Installed Equipment. Manufacturer/Model					
Piping A. Primary containment i. Manufacturer/Model					
ii. Diameter in inches					
iii. UL#					
B. Secondary containment i. Manufacturer/Model					
ii. Diameter in inches					
iii. UL#					
C. Leak Detection Permanently Installed Equipment. Manufacturer/Model					
D. Dispenser drip pan. Make/Model					
3. Tank Pump. Manufacturer/Model					
Risers A. Spill containment bucket i. Manufacturer/Model					
ii. Capacity in gallons					
B. Overfill device i. Mechanical. Make/model					
ii. Electronic. Make/model					

XIV. OPERATOR'S CERTIFICATION (Read and sign after completing all sections)

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete.

Name	of operator or operator's authori	zed representative (Print or Type)	Official Title
 Signati	ure		Date Signed
Statu	s of Signatory (Mark as a	opropriate)	
	Corporation:	principal executive officer	
	·	duly authorized representative	
2.	Partnership:	general partner	
3.	Sole proprietorship:	proprietor	
	Government entity:	principal executive officer	
	•	ranking elected official	
		duly authorized employee	
subm	of owner or owner's authorized	ccurate, and complete.	tely responsible for obtaining the information, I believe that the Official Title
 Signati	ure		Date Signed
Status	s of Signatory (Mark as a	opropriate)	
	Corporation:	principal executive officer	
	·	·	
		duly authorized representative	
2.	Partnership:	duly authorized representative general partner	
2. 3.	· •	· · · · · · · · · · · · · · · · · · ·	
	Sole proprietorship:	general partner	
3.	Sole proprietorship:	general partner proprietor	

APPENDIX III CERTIFICATION OF UNDERGROUND STORAGE TANK INSTALLATION Form No. III (6/99)

Facility Name	ID#		Permit No.		
Part I. CERTIFICATION OF COMPLIAN	NCE FOR NEW	AND MODIFIEI	O TANKS (Comp	lete for each at	this location)
Tank Number	Tank No	Tank No	Tank No	Tank No	Tank No
1. Installation					
A. Installation certified by tank and piping manufacturers					
B. Installation inspected by a registered engineer					
C. Installation inspected and approved by the department					
D. Manufacturer's installation checklists have been completed and documented					
E. Another method allowed by the department. Please specify					
knowledge. Installer Name	Signature			Date	
Position Company					
Part III. OPERATOR'S AND OWNER	'S CERTIFICAT	ION FOLLOWI	NG INSTALLATI	ION	
Were any changes made to the origina	l installation plai	ns? No) Ye	es - Complete ar	nd Submit Part IV
I have received the manufacturer's ope detection equipment (if applicable), and (Operator) OR	d other documen				
I certify under penalty of law that I have all attached documents, and that based information, I believe that the submitted	d on my inquiry of	of those individ	uals immediately		
Operator's Name	Opera	tor's Signature			

Owner's Signature

Owner's Name

Part IV.	CHANGES TO ORIGINAL INSTALLATION PLANS	(Complete th	nis Part only if	changes were	made to the
original	installation plans)				

FINANCIAL RESPONSIBILITY (Check Self Insurance Commercial In		isk Retention Gro	up Guaran	tee Surety	Bond
Letter of Credit Trust Fund E	xempt: State or	Federal Agency	Other Metho	od Allowed (Spe	cify)
DESCRIPTION OF TANK(S) (Complete	for each at this	location)			
Tank Number	Tank No	Tank No	Tank No	Tank No	Tank No
Status of Tank (Mark only one)					
A. Currently in Use					
B. Temporarily Out of Use (Also complete Section X)					
C. Permanently Out of Use (Also complete Section X)					
D. Installed prior to but not yet brought into use					
E. To be installed					
Proposed Date of Activity (Installation, Modification, Closure, etc.) (mo./day/year)					
3. Estimated Total Capacity (gallons)					
4. Substance Stored					
A. Gasoline					
B. Diesel					
C. Gasohol					
D. Kerosene					
E. Used Oil					
F. JP-4					
G. Non-Petroleum Hazardous Substance (CERCLA name and/or CAS #)					
H. Mixture of Substances, Please specify					
I. Other, Please specify					
Substance Compatible with Tank and Piping (Y/N)					
6. Tank (Mark all that apply)					
A. Primary Containment Material					
i. Fiberglass reinforced plastic (FRP)					
ii. Steel					
iii. Other, Please specify					

B. Secondary Containment Material

П			· · · · · · · · · · · · · · · · · · ·
i. Double walled			
a. FRP			
b. Steel			
c. Other, Please specify			
ii. Other secondary containment			
a. FRP			
b. Other, Please specify			
C. Corrosion Protection (except FRP tanks)			
i. Fiberglass coated steel			
ii. Double walled steel			
iii. Impressed current system			
iv. Sacrificial anode system			
v. Corrosion expert determination			
vi. Other, Please specify			
7. Piping (Mark all that apply)			
A. Primary Containment Material			
i. Rigid fiberglass			
ii. Flex piping			
iii. Other			
B. Type of Secondary Containment			
i. Lined trench			
ii. Rigid double walled piping			
iii. Flex double walled piping			
iv. Other			
C. Corrosion Protection (except FRP piping)			
i. Fiberglass coated steel			
ii. Impressed current system			
iii. Sacrificial anode system			
iv. Corrosion expert determination			
v. Other, Please specify			
Method of Product Dispensing			
A. Suction			
B. Safe Suction			
C. Pressure			
D. Not Applicable			

Spill and Overfill Prevention			1							
A. Overfill device installed										
i. Automatic shutoff device										
ii. Overfill alarm										
iii. Ball float valve										
B. Spill device installed										
10. Release Detection (Mark all that apply)	TANK	PIPE								
A. Manual tank gauging		NA								
B. Tank tightness testing		NA								
C. Inventory control		NA								
D. Automatic tank gauging		NA								
E. Vapor monitoring										
F. Groundwater monitoring										
G. Interstitial monitoring										
H. Statistical inventory reconciliation										
I. Automatic line leak detectors	NA									
J. Line tightness testing	NA									
K. Other method approved by the department. Please specify										
11. Tank or Pipe Repaired (Y/N)										
A. Date										
B. Description of repair										

FACILITY DRAWING

Include a drawing showing the general layout of the facility. This drawing should be no larger than 11 by 17 inches and preferably to scale. This drawing should show the following:

- A. The property boundaries of the facility;
- B. Identification of streets, roads and nearby bodies of water;
- C. Identification of nearby facilities;
- D. Tax Map Key (TMK) Numbers;
- E. Location of buildings at the facility;
- F. The approximate dimensions of the property boundaries and major buildings;
- G. Location of all USTs (identified by number consistent with the tank numbers in Sections IX X), dispenser pumps, and associated pipings; and
- H. Indication of North/South direction.

NEW OR UPGRADED TANKS

Tank Number	Tank No				
Tank A. Manufacturer/Model					
B. Underwriter Laboratory (UL) #					

C. Leak Detection Permanently Installed Equipment. Manufacturer/Model			
Piping A. Primary containment i. Manufacturer/Model			
ii. Diameter in inches			
iii. UL#			
B. Secondary containment i. Manufacturer/Model			
ii. Diameter in inches			
iii. UL#			
C. Leak Detection Permanently Installed Equipment. Manufacturer/Model			
D. Dispenser drip pan. Make/Model			
3. Tank Pump. Manufacturer/Model			
Risers A. Spill containment bucket i. Manufacturer/Model			
ii. Capacity in gallons			
B. Overfill device i. Mechanical. Make/model			
ii. Electronic. Make/model			

APPENDIX IV **APPLICATION FOR RENEWAL OF AN UNDERGROUND STORAGE TANK PERMIT** Form No. IV (6/99)

Solid and Hazardous Waste Branch	010 Ala Maana Blud Baam 1	212 Handulu Hawaii 06914
	i, 919 Ala Moana Bivu., Room 2	212, Horiolulu, Hawaii 90014
Renewal (\$50)		
	STATE USE ONLY	
Facility ID Number	Permi	t #
Date Received		t Fee
Date Entered into Computer		Paid
•		pt #
Comments:		
Please type or print in ink all items except "sig	nature" in sections V and VI	
l.	LOCATION OF TANKS(S)	
	Ocatact Bosses at Location	
Facility Name or Company Site identifiers, as applicable	Contact Person at Location	
Location Address (P.O. Box not acceptable)	Location Phone # (w/ area code)	Fax # (w/ area code)
Ecodition Address (1.0. Box not acceptable)	Location 1 Hone ii (w/ area code)	Tax " (w area sode)
City State Zip Cod	e Island	Tax Map Key #
II CONTACT	PERSON IN CHARGE OF TA	NK(S)
II. OONTAOT	TEROON IN OHARGE OF TA	141(0)
Name Job Title Address	· · · · · · · · · · · · · · · · · · ·	-
Phone # (with area code) Fax # (with area code)	code)	
III. OWNER OF TAN	IK(S) (If same as Section I, che	ck here)
		,
Owner Name (Corporation, Individual, Public Agency, or C	Other Entity)	
Mailing Address		
City State Zip Cod	e Phone # (w/ area code) Fax # (w/ area code)
IV. OPERATOR OF TA	ANK(S) (If same as Section I, cl	heck here)
Operator Name (Corporation, Individual, Public Agency, o	r Other Entity)	
		
Mailing Address		
CityCtateZin Code Dhone # (w) area and a) F # (w)	orea code)	
CityStateZip Code Phone # (w/ area code) Fax # (w/	· · · · · · · · · · · · · · · · · · ·	
Did you have any repairs since your last applic		
If yes, please indicate the date of the repair an	nd what action was taken:	

V. OPERATOR'S CERTIFICATION (Read and sign after completing all sections)

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete.

Name of operator or operator's authorized representative (Print or Type) Official Title						
 Signa	uture		Date Signed	-		
Stati	us of Signatory (Mark as	appropriate)				
	Corporation:	principal executive officer				
		duly authorized represent	ative			
	Partnership:	general partner				
	Sole proprietorship:	proprietor				
4.	Government entity:	principal executive officer				
		ranking elected official				
		duly authorized employee)			
 Name	e of owner or owner's authorize	ed representative (Print or Type) Official	Title	-		
 Signa	iture	Date S	igned	-		
Stati	us of Signatory (Mark as	appropriate)				
	Corporation:	principal executive officer				
	·	duly authorized represent				
2.	Partnership:	general partner				
	Sole proprietorship:	proprietor				
4.	Government entity:	principal executive officer				
		ranking elected official				
		duly authorized employee)			

APPENDIX V

APPLICATION FOR TRANSFER OF AN UNDERGROUND STORAGE TANK PERMIT Form No. V (6/99)

Solid and Haz	zardous Waste Branch	n, 919 Ala Moana Blvd.,	Room 212, Ho	nolulu, Hawaii 96814
Transfer (\$25)				
		STATE USE ONLY		
Facility ID Number		Permit	#	
Date Received		Permit	Fee	
Date Entered into Compu	ıter			
		Receip	ot #	
Comments:		-		
Please type or print in ink	call items except "sig	nature" in sections VIII a	and IX.	
71 1		LOCATION OF TANKS		
Facility Name or Company Site	identifiers as applicable	Contact Person at Location		
r domity reams or company one	identificite, de applicable	Contact Forcer at Location		
Location Address (P.O. Box not	t acceptable)	Location Phone # (w/ area	code) Fax #	(w/ area code)
(: :e:ex ::e	. 4000 (142.0)	2004	i an ii	(11/ 41/04 00/40)
City S	state Zip Cod	e Island	 Tax M	 ap Key #
		PERSON IN CHARGE		
			(-)	
NameJob TitleAddress				
Phone # (with area code) F	ax # (with area code)			
, , , , , , , , , , , , , , , , , , , ,		IK(S) (If same as Sectio	n I. check here	:)
	•		,	/ /
Owner Name (Corporation, Indi	vidual. Public Agency, or C	Other Entity)		
omeriame (corporation, mar	ridual, r dollo rigolloj, or c			
Mailing Address				
· ·				
City S	state Zip Cod	e Phone # (w/ area code)	Fax # (w/ area c	code)
•	•	NK(S) (If same as Sec		
• •				<u></u> /
Operator Name (Corporation, In	ndividual, Public Agency, o	r Other Entity)		
(00.60,	, ,, ,,	- C,		
Mailing Address				
3				
City S	state Zip Cod	e Phone # (w/ area code)	Fax # (w/ area d	code)
·	•	V. TYPE OF OWNER	,	,
Federal Government	Military Fe	ederal GovernmentNon	-Military S	State Government
Local Government	-	larketer	•	Non-Marketer
		TY (Select the appropria	•	• •
Airline Auto Dea				
Communication Site				
Hospital Petrole				
Service Centers/Auto	-	•		S
Wastewater Treatme	ent Plants Whole	saler/Retailer Othe	r (Explain)	

	VIII EINIANOIAI DEODO	NOIDILITY (OL						
Calf Incurance Com		NSIBILITY (Check all that apply)	Curaty Dand					
Self Insurance Commercial Insurance Risk Retention Group Guarantee Surety Bond Letter of Credit Trust Fund Exempt: State or Federal Agency								
	Letter of Credit Trust Fund Exempt. State of Federal Agency Other Method Allowed (Specify)							
		(Read and sign after completing all sections	1					
		amined and am familiar with the information s						
		uiry of those individuals immediately respons						
		n is true, accurate, and complete.	g					
·		•						
Name of operator or operator's authorized	orized representative (Print or Ty	ype) Official Title						
Signature	Date	Signed						
Signature	Date	Signed						
Status of Signatory (Mark as	appropriate)							
1. Corporation:	principal executive	officer						
•	duly authorized rep	presentative						
Partnership:	general partner							
Sole proprietorship:	proprietor							
Government entity:	principal executive							
	ranking elected off							
	duly authorized em	• •						
		lead and sign after completing all sections)						
		amined and am familiar with the information s						
		uiry of those individuals immediately respons	ble for obtaining					
the information, I believe that	the submitted information	n is true, accurate, and complete.						
Name of owner or owner's authorize	d representative (Print or Type)	Official Title						
Name of owner of owner 3 authorize	a representative (i fint or Type)	Cincial File						
Signature	Date	Signed						
Status of Signatory (Mark as								
1. Corporation:	principal executive							
duly authorized representative								
2. Partnership:	•							
3. Sole proprietorship:4. Government entity:	proprietor	officer						
4. Government entity:	principal executive ranking elected off							
	duly authorized em							
	duly authorized employee							

APPENDIX VI APPLICATION FOR AN UNDERGROUND STORAGE TANK VARIANCE Form No. VI (6/99)

Sol	id and Hazardous W	aste Branch, 919 Ala N	/loana Blvd., Roo	m 212, Honolulu, Hawaii 96814	
New Application		OF VARIANCE APPLI Modification (\$1		all that apply) Renewal (\$100)	
		STATE U	JSE ONLY		
Facility ID Number _					_
Date Received					
Date Entered into Co	omputer				
0		R	eceipt #		_
Comments:					
Please type or print i	n ink all items excep	t "signature" in sections	s XIV and XV.		
		I. LOCATION	OF TANKS(S)		
Facility Name or Company	y Site identifiers, as applic	cable Contact Perso	on at Location		-
Location Address (P.O. Bo	ox not acceptable)	Location Pho	ne # (w/ area code)	Fax # (w/ area code)	-
City	State	Zip Code	Island		-
	T PERSON IN CHAI	· · · · · · · · · · · · · · · · · · ·			
II. CONTAC	T I LIGON IN OTIAL	TOL OF TAINING			
					_
Name	Job Title	Address			
Phone # (with area code)	Fax # (with area of	ode)			
	III. OWN	ER OF TANK(S) (If sar	me as Section I, o	check here)	
Owner Name (Corporation	Individual Public Agend	or Other Entity)			
owner rame (corporation	i, maividuai, r ubilo rigorio	y, or other Entity)			
Mailing Address					
City	State	Zip Code Phone # (w/ a	area code) F	ax # (w/ area code)	_
•	IV OPERA	ATOR OF TANK(S) (If s			
	IV. OI LIV	(101(0) 1/11(0) (11 0	diffe as occion	i, check fiele)	
Operator Name (Corporat	ion, Individual, Public Age	ency, or Other Entity)			
Mailing Address					
Mailing Address					
City	State	Zip Code Phone # (w/ a	area code) F	ax # (w/ area code)	_
		V. LANI	DOWNER		
Owner Name (Corporation	n, Individual, Public Agend	cy, or Other Entity)			
Mailing Address					
•					
					_
City	State	Zip Code Phone # (w/ a	area code) E	ax # (w/ area code)	

On a separate sheet of paper provide information on Sections VI--XIII. VI. Provide information concerning the age, size, type, location, and uses of the UST or tank system for which a variance is being sought. Attach a copy of Notification for Underground Storage Tanks (Form No. I) and/or Application for an Underground Storage Tank Permit (Form No. II) and Notification of Underground Storage Tank Installation and Application for a Permit to Operate an Underground Storage Tanks (Form No. III). VII. Identify the State laws or rules (HRS 342L and the rules adopted under HAR Chapter 64) from which a variance is being sought. VIII. Explain how present conditions do not fully conform to State laws or rules. IX. Explain the reason for the variance request. X. Explain how a variance from State laws/rules would not be less stringent than the federal regulations promulgated under RCRA Subtitle I. XI. Explain how the requested variance would protect human health and the environment to an equivalent degree allowed by the federal regulations. XII. Explain how the requested variance would not imminently or substantially endanger human health or the environment or the public's safety. XIII. Explain how compliance with the requirements for which variance is sought would result in serious financial hardship to the owner and the operator of the UST or tank system. Provide supporting documentation. XIV. OPERATOR'S CERTIFICATION (Read and sign after completing all sections) I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. Name of operator or operator's authorized representative (Print or Type) Official Title Signature Date Signed Status of Signatory (Mark as appropriate)--1. Corporation: principal executive officer _ duly authorized representative 2. Partnership: ___ general partner 3. Sole proprietorship: ___ proprietor

XV. OWNER'S CERTIFICATION (Read and sign after completing all sections)

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete.

___ principal executive officer

___ ranking elected official duly authorized employee

4. Government entity:

Name of owner or owner's authorized representation	esentative (Print or Type)	Official Title	
Signature	Date	Signed	
Status of Signatory (Mark as appro	opriate)		
1. Corporation:		al executive officer uthorized representative	
Partnership:	genera	l partner	
3. Sole proprietorship:	proprie	tor	
4. Government entity:	ranking	al executive officer gelected official uthorized employee	

(6/99)

APPENDIX VII

HAWAII DEPARTMENT OF HEALTH

Solid and Hazardous Waste Branch Underground Storage Tank Section 919 Ala Moana Blvd., Room 212 Honolulu, Hawaii 96814

	ITLEMENT AGREEMENT OF CITATION
NOTICE	OF CITATION
On/, at:_	am/pm at the Facility known as:
located at:	
ID number:	
in the presence of the Owner/Operate	or/On-site Representative:
this facility to determine compliance	er 342L, Hawaii Revised Statutes (HRS
*§ 11-281, HAR Violation:	Settlement: \$
Date(s):	
*§ 11-281, HAR Violation:	Settlement: \$
Date(s):	
*§ 11-281, HAR Violation:	Settlement: \$
 Date(s):	
*§ 11-281, HAR Violation:	Settlement: \$
*HAR means the Hawaii Administra	tive Rules
Proposed Settleme	ent Total: \$
	TATION ORDER
The owner and operator are hereby above.	ordered to correct the violations describe
under chapter 91, HRS but is an offer issued solely with reference to the S this form. If the Settlement Agreem 30 calendar days of the date of insper	djudicatory proceeding or contested case or to settle an administrative case that is ettlement Agreement on the reverse of ent is not returned in correct form within ection, this Field Citation Order is hereb H's ability to file additional enforcement colations.
I have personally observed the viola and operator in violation of the above	tions described above, and find the own re-referenced regulations.

(Signature of DOH Inspector)

Date:_

FIELD CITATION No:

RECEIPT BY OWNER OR OPERATOR

 gnature of Owner, Operator or On-site Representative)
rint Name)
 rint Title)
 rint Title)

WITHIN THIRTY CALENDAR DAYS OF THE INSPECTION DATE:

If you wish to avoid enforcement actions and penalties for the violations noted of up to \$25,000 per tank per day for each violation, you may participate in an expedited settlement by:

- 1. Correcting all of the violations noted by the inspector.
- 2. Providing a description of all of the actions you took to correct the violations in the blank space provided below, attaching additional pages for information that does not fit within the space provided, and attaching copies of any records or other documents evidencing the actions you took to correct the violations.
- 3. After you have corrected all of the violations, but no later than thirty calendar days after the date of the inspection, signing the Settlement Agreement and Certification on the reverse side.
- 4. Submitting a cashier's or personal check made out to "State of Hawaii" for the full payment of the "Proposed Settlement Total" noted in the Notice of Citation section, together with the original of this form, to: Hawaii Department of Health, Solid and Hazardous Waste Branch ,Underground Storage Tank Section, 919 Ala Moana Blvd, Room 212, Honolulu, Hawaii 96814.

DESCRIPTION OF CORRECTIONS

In the space below, please describe the work performed to correct the violations, attaching additional pages if you need more space. Attach copies of all documents describing the work that was performed.

INFORMATION ABOUT THIS FIELD CITATION/SETTLEMENT AGREEMENT

The Hawaii Department of Health (DOH) has authority under chapter 342L, Hawaii Revised Statutes to issue Notices of Violation and Compliance Orders and to pursue civil penalties for violations of the underground storage tank laws. However, DOH encourages the expedited settlement of easily verifiable violations of underground storage tank laws, such as the violations described in the Notice of Citation section on the reverse, by agreeing to standard settlement terms that include expedited correction of the violations and payment of the settlement amount indicated in the Notice of Violation section on the reverse side of this form.

You may resolve the cited violations quickly by correcting the violations, paying the settlement amount and signing and returning the Settlement Agreement to DOH within 30 calendar days of the issuance of the field citation. DOH, at its discretion, may grant one 30 calendar day extension of this settlement offer for good cause. The payment of the settlement agreement must be in the form of a check payable to the "State of Hawaii" with the number of the field citation written on the check.

DOH will not accept nor approve the Settlement Agreement if there is any alteration of the Field Citation/Settlement Agreement, if there is payment of less than the full amount of the settlement, if the Settlement Agreement is not returned within the time required, or if the violations are not corrected within the time allowed. DOH will treat any response to the field citation, other than timely acceptance of the Settlement Agreement, or timely request for a 30-day extension, as an indication that you are not interested in pursuing this expedited settlement procedure.

If the Settlement Agreement is not returned in proper form or if full payment of the settlement amount is not made within the time required, DOH may proceed without prejudice to file enforcement actions for the above cited or any other violations or both. Failure to pay the Settlement Agreement and pay the settlement amounts within the time allowed does not relieve you of the responsibility to correct the violations identified by the inspector, nor to comply fully with all other regulatory requirements.

This Field Citation/Settlement Agreement is not an adjudicatory proceeding or contested case under chapter 91, HRS. However, if you do not sign and return the Settlement Agreement and pay the settlement amounts within the time allowed, and DOH pursues further enforcement measures in order to have the violations corrected or to seek penalties, you will receive instructions describing your rights under applicable laws. By signing this Field Citation Order/Settlement Agreement, you waive your right to a contested case hearing under chapter 91, HRS with respect to the violations cited in the Notice of Citation section.

If this Field Citation Order/Settlement Agreement is not signed by the owner or operator and by DOH, DOH reserves the right to: (1) issue a Notice of Violation for any or all of the violations described in the Notice of Citation section of this field citation, and (2) order the payment of a penalty higher than the amount(s) indicated as settlement amounts(s) in the Notice of Citation. The penalty amounts set forth in the Notice of Citation section are lower than the penalties ordinarily issued in a Notice of Violation because they are amounts adjusted for expedited settlement.

Final approval of the Settlement Agreement is in the sole discretion of DOH. Upon final approval by DOH, a copy of the approved Settlement Agreement will be returned to you, and DOH will take no further action against you for the violations cited in the Notice of Citation section. If you have any questions, you may contact the DOH UST Section at (808) 586-4226.

FIELD CITATION No:

SETTLEMENT AGREEMENT

By signing below, the owner or operator accepts the terms of this Settlement Agreement, and agrees not to challenge the issuance of the Notice of Citation and Field Citation Order. Subsequent signature by DOH constitutes its acceptance of the Settlement Agreement. This Field Citation/Settlement Agreement is not effective until signed by both the owner or operator and by DOH. This settlement offers expires thirty calendar days after the date of the inspection, unless otherwise specified in a written extension granted by DOH.

SETTLEMENT AGREEMENT. To expeditiously settle the violations described in the Notice of Citation, DOH AND THE OWNER OR OPERATOR SIGNING BELOW HEREBY ENTER INTO THE SETTLEMENT AGREEMENT, subject to the following terms and conditions:

- This Settlement Agreement is binding on DOH and the Owner or Operator signing below.
- 2. The Owner or Operator signing below certifies, subject to civil and criminal penalties for making a false submission to DOH, that the Owner or Operator has corrected the violations within thirty calendar days from the date of inspection (unless DOH has granted an extension) and has presented DOH with a check to pay the full amount of the "Proposed Settlement Total" prescribed in the Notice of Citation section on the reverse.
- 3. The Owner or Operator signing below waives any objections to DOH's jurisdiction with respect to this Field Citation/Settlement Agreement, waives any objections to the violations and settlement amount in the Notice of Citation section, and consents to DOH's final approval of this Settlement Agreement without further notice.
- 4. The Owner or Operator signing below waives the right to a contested case hearing for the cited violations under chapter 91 HRS.
- 5. Upon DOH's final approval of this Settlement Agreement, DOH agrees that it will take no further action against the Owner or Operator for the violations described in the Notice of Citation section, provided that the violations have been fully corrected.
- 6. DOH does not waive any enforcement action it may take for any past, present or future violations of the underground storage tank laws not described in the Notice of Citation section. This is not a waiver of any violations of any other statute or regulations.
- 7. Final approval of the Settlement Agreement is in the sole discretion of DOH. Upon DOH's final approval below, this Settlement Agreement becomes effective, and DOH shall mail a copy to the Owner or Operator.

AGREEMENT BY OWNER OR OPERATOR

I hereby certify that the violations cited in the Notice of Citation have been corrected, and agree to the terms of the Settlement Agreement described above.

	Date://
(Signature of Owner and/or Operator,	l
(Print Name)	
(Print Title)	
(Print Mailing Address of Person Sign	sing Agreement)
FINAL APPROVAL BY DOH:	
	Date:/
(Signature)	
(Title)	

	Appendix VIII - FIELD CITATION PENALTY AMOUNTS - June 1999	Penalty
Statutory or Regulatory <u>Citation</u>	<u>Violation</u>	Amount f o r Settle- ment
HAR 11-281-12(1)	Installation of improperly constructed fiberglass-reinforced plastic tank	\$300
11-281-12(2)	Installation of an improperly designed and constructed steel tank that fails to meet corrosion protection standards	\$300
11-281-12(2)(A)	Installation of a steel tank with unsuitable dielectric coating	\$150
11-281-12(2)(B)	Installation of an improperly designed cathodic protection system for a steel tank	\$300
11-281-12(2)(C)	Impressed current system is not designed to allow determination of current operating status	\$150
11-281-12(2)(D)	Improper operation or maintenance of tank cathodic protection system	\$150
11-281-12(3)	Installation of an improperly constructed steel-fiberglass-reinforced-plastic tank	\$300
11-281-13(1)	Installation of improperly constructed fiberglass-reinforced plastic piping	\$300
11-281-13(2)	Failure to provide any cathodic protection for steel piping	\$300
11-281-13(2)(A)	Installation of piping with unsuitable dielectric coating	\$150
11-281-13(2)(B)	Installation of improperly designed cathodic protection for steel piping	\$300
11-281-13(2)(C)	Improper installation of cathodic protection system for piping	\$150
11-281-13(2)(D)	Impressed current system is not designed to allow determination of current operating status	\$150
11-281-14(a)	Failure to use a spill prevention system or an overfill prevention system	\$300

11-281-14(a)(1)	Installation of inadequate spill prevention equipment	\$150
11-281-14(a)(2)	Installation of inadequate overfill prevention equipment	\$150
11-281-14(c)	Failure to provide adequate alarms that are clearly labeled and located where the delivery person can clearly see or hear the alarm $$	\$150
11-281-15	Failure to install tank in accordance with accepted codes and standards	\$150
11-281-15	Failure to install piping in accordance with accepted codes and standards	\$150
11-281-16(a)	Failure to provide adequate certification of UST installation	\$150
11-281-16(b)	Failure to provide installer certification of compliance with installation requirements on notification form ${}^{\prime}$	\$150
11-281-17(a)	Failure to provide adequate secondary containment	\$300
11-281-17(b)	Failure to provide adequate double-walled tank or adequate lining	\$300
11-281-17(c)	Failure to provide adequate external liners	\$300
11-281-17(d)	Failure to provide adequate secondary containment of piping	\$300
11-281-18(a)	Failure to perform replacement, upgrade, or closure for existing substandard tank systems	\$300
11-281-18(b)	Failure to meet all tank upgrade standards	\$300
11-281-18(b)(1)(A)	Improper installation of interior lining for tank upgrade requirements	\$150
11-281-18(b)(1)(B)	Failure to meet interior lining inspection requirements for tank upgrade	\$150
11-281-18(b)(2)(A)	Failure to ensure that tank is structurally sound before installing cathodic protection	\$150
11-281-18(b)(2)(B)	Failure to conduct monthly release detection monitoring for upgraded tank under 10 years of age	\$300
11-281-18(b)(2)(C)	Failure to meet tightness test requirements for a tank upgraded with cathodic protection	\$150
11-281-18(b)(2)(D)	Failure to meet requirements for testing for corrosion holes for a tank upgraded with cathodic protection	\$150

11-281-18(c)	Failure to meet piping tightness test requirements for metal piping after upgrade with cathodic protection	\$150
11-281-18(d)	Failure to provide adequate spill or overfill prevention system for an existing tank	\$300
11-281-21(1)	Failure to notify director of change in ownership within 30 days	\$150
11-281-21(2)	Failure to notify director of change in operator within 30 days	\$150
11-281-21(3)	Failure to amend notification within proper timeframe	\$50
11-281-23	Failure to apply for a permit	\$300
11-281-25(c)	Failure to inform the department at least seven days prior to installation	\$150
11-281-25(d)	Failure to inform the department within 30 days after installation	\$150
11-281-26	Failure to renew a permit	\$150
11-281-29	Failure to apply for the modification of a permit or submit a notice of change	\$150
11-281-31	Failure to apply for transfer of a permit	\$150
11-281-34	Failure to properly maintain a permit or variance	\$50
11-281-41(a)	Failure to take necessary precautions to prevent overfill or spillage during the transfer of product	\$300
11-281-42(a)(1)	Failure to operate or maintain corrosion protection system continuously	\$150
11-281-42(a)(2)	Failure to ensure proper operation of cathodic protection system	\$150
11-281-42(a)(3)	Failure to inspect impressed current systems every 60 days	\$150
11-281-42(b)	Failure to maintain records of cathodic protection inspections	\$50
11-281-43	Failure to ensure that UST system is made of or lined with materials compatible with substance stored	\$150
11-281-44(b)(1)	Failure to repair UST system in accordance with accepted codes and standards	\$150

11-281-44(b)(2)	Failure to repair fiberglass-reinforced UST in accordance with accepted codes and standards	\$150
11-281-44(b)(3)	Failure to replace metal piping which has released product	\$150
11-281-44(b)(3)	Failure to repair fiberglass-reinforced piping in accordance with manufacturers specifications	\$150
11-281-44(b)(4)	Failure to ensure that repaired tank systems are tightness tested within 30 days of completion of repair	\$300
11-281-44(b)(5)	Failure to test cathodic protection system within 6 months of repair of an UST system $$	\$150
11-281-44(c)	Failure to maintain records of each repair to an UST system	\$50
11-281-45(c)(1)	Failure to maintain analysis of site corrosion potential if corrosion protection equipment is not used or to maintain the records for the required time period	\$50
11-281-45(c)(2)	Failure to maintain corrosion protection equipment operation documentation or to maintain the records for the required time period	\$50
11-281-45(c)(3)	Failure to maintain documentation of UST system repairs or to maintain the records for the required time period	\$50
11-281-45(c)(4)	Failure to maintain documentation of compliance with release detection requirements or to maintain the records for the required time period	\$50
11-281-45(c)(5)	Failure to maintain record of compliance with change-in-service or permanent closure requirements including results of the site assessment or to maintain the records for the required time period	\$50
11-281-45(d)(1)	Failure to make records immediately available for inspection by maintaining the records on site or at an alternative site through another method of recordkeeping as approved by the director	\$50
11-281-45(d)(2)	Failure to maintain permanent closure records at a readily available alternative site	\$50
11-281-51(a)	Failure to provide adequate release detection method	\$300
11-281-51(d)	Failure to close or complete change-in-service for any UST system that	\$300

cannot meet release detection requirements

11-281-51(e)(1)	Failure to monitor tanks at least every 30 days	\$300
11-281-51(e)(1)(A)	Failure to conduct tank tightness testing for the appropriate time period	\$300
11-281-51(e)(1)(B)	Failure to conduct monthly inventory control and tank tightness testing every 12 months	\$300
1 1 - 2 8 1 - 51(e)(2)(A)(i)	Failure to equip pressurized piping with automatic line leak detector	\$300
1 1 - 2 8 1 - 51(e)(2)(A)(ii)	Failure to conduct a tank tightness test every 12 months or perform monthly monitoring on pressurized piping	\$300
11-281-51(e)(2)(B)	Failure to conduct line tightness test every 12 months or use monthly monitoring on suction piping	\$300
11-281-52(1)	Failure to conduct adequate monthly inventory control	\$300
11-281-52(1)(A)*	Failure to record inventory volume measurements each operating day	\$50
11-281-52(1)(B)*	Failure to use inventory control equipment capable of measurements to the nearest $1/8{\rm th}$ of an inch	\$50
11-281-52(1)(C)*	Failure to take proper readings	\$50
11-281-52(1)(D)*	Failure to reconcile product inputs with delivery receipts	\$50
11-281-52(1)(E)*	Failure to use a drop tube that extends to within one foot of the tank bottom	\$50
11-281-52(1)(F)*	Failure to perform adequate calibration every 12 months	\$50
11-281-52(1)(G)*	Failure to measure water level to the nearest $1/8 \mathrm{th}$ of an inch at least once a month	\$50
11-281-52(2)	Inadequate operation or maintenance of manual tank gauging (MTG)	\$300
11-281-52(2)(A)	Failure to conduct MTG for the appropriate time period	\$50
11-281-52(2)(B)	Failure to take two proper level measurements at the beginning and end of the appropriate MTG time period $$	\$50

11-281-52(2)(C)	Failure to use MTG equipment that is capable of measurements to the nearest $1/8 \mathrm{th}$ of an inch	\$50
11-281-52(2)(D)	Failure to conduct weekly or monthly testing or to conduct testing for the minimum test duration $% \left(1\right) =\left(1\right) +\left(1\right) +\left$	\$50
11-281-52(2)(E)	Failure to take weekly measurements	\$50
11-281-52(3)	Inadequate operation or maintenance of tank tightness testing	\$150
11-281-52(4)	Inadequate operation or maintenance of an automatic tank gauging system	\$300
11-281-52(4)(A)	Failure to use an automatic product level monitor test with a 0.2 gallon per hour leak rate threshold	\$150
11-281-52(4)(B)	Failure to conduct inventory control or another test of equivalent performance in conjunction with tank tightness testing	\$150
11-281-52(5)	Inadequate operation or maintenance of a vapor monitoring system	\$300
11-281-52(5)(A)#	Failure to use sufficiently porous backfill	\$150
11-281-52(5)(B)#	Failure to use a sufficiently volatile substance or tracer compound in conjunction with vapor monitoring	\$150
11-281-52(5)(C)#	Failure to ensure that the measurement of vapors remains operative so that a release could not go undetected for more than 30 days	\$150
11-281-52(5)(D)#	Failure to ensure a level of background contamination to not interfere with release detection by the vapor monitor	\$150
11-281-52(5)(E)#	Failure to use a system than can detect any significant increase in vapor levels	\$150
11-281-52(5)(F)#	Failure to assess the site with written documentation to ensure compliance with requirements or to properly position monitoring wells	\$150
11-281-52(5)(G)#	Failure to clearly mark or secure monitoring wells for vapor monitoring	\$150
11-281-52(6)	Inadequate operation or maintenance of a ground water monitoring system	\$300
11-281-52(6)(A)@	Failure to use the system on a stored substance that is immiscible in water and has a specific gravity of less than one	\$150

11-281-52(6)(B)@	Failure to employ a system with an adequate ground water level and soil conductivity	\$150
11-281-52(6)(C)@	Failure to use an adequate monitoring well casing	\$150
11-281-52(6)(D)@	Failure to properly seal monitoring wells	\$150
11-281-52(6)(E)@	Failure to use monitoring wells that are as close to the excavation zone as technically feasible	\$150
11-281-52(6)(F)@	Failure to use equipment that can detect at least $1/8 \mathrm{th}$ of an inch of free product	\$150
11-281-52(6)(G)@	Failure to assess the site with written documentation to ensure compliance with the requirements or to properly position monitoring wells	\$150
11-281-52(6)(H)@	Failure to clearly mark or secure monitoring wells	\$150
11-281-52(7)	Inadequate operation or maintenance of interstitial monitoring	\$300
11-281-53	Failure to provide any release detection for underground piping	\$300
11-281-53(1)	Failure to provide adequate line leak detector system for underground piping	\$150
11-281-53(2)	Failure to provide adequate line tightness testing system for underground piping system	\$150
11-281-53(3)	Inappropriate use of tank release detection methods	\$150
11-281-54(a)	Failure to maintain records of release detection monitoring	\$150
11-281-54(b)(1)	Failure to document all release detection performance claims for the life of the equipment $\ensuremath{\mathcal{C}}$	\$50
11-281-54(b)(2)	Failure to maintain results of sampling, testing, or monitoring for release detection for at least 1 year	\$50
11-281-54(b)(3)	Failure to document records of calibration, maintenance, or repair of release detection or to maintain records for the required time period	\$50
11-281-54(b)(4)	Failure to maintain all records for at least the last 12 months of release detection	\$50

11-281-54(b)(5)	Failure to maintain operating manuals for all currently installed leak detection equipment for the required time period	\$50
11-281-54(b)(6)	Failure to maintain documentation of the site assessment for three years after change-in-service or permanent closure	\$50
11-281-81(b)	Failure to continue operation or maintenance of corrosion protection system in a temporarily closed tank system	\$150
11-281-81(b)	Failure to continue operation or maintenance of release detection in a temporarily closed tank system that is not empty	\$300
11-281-81(d)	Failure to comply with temporary closure requirements	\$300
11-281-81(d)(1)	Failure to leave vent lines open and functioning for a tank system that is temporarily closed for 3 or more months ${}^{\circ}$	\$150
11-281-81(d)(2)	Failure to secure all other lines, pumps, manways, and ancillary equipment for a tank system that is temporarily closed for 3 or more months	\$150
11-281-81(e)	Failure to permanently close or upgrade a tank system where regulated substances have not been deposited after 12 months	\$300
11-281-82(b)	Failure to notify the department of a closure or change-in-service within 30 days of beginning permanent closure or change-in-service	\$300
11-281-82(c)	Failure to notify the department at least 7 days before a permanent closure or change-in-service action	\$150
11-281-82(d)(1)	Failure to remove all liquids and sludges for tank closure	\$300
11-281-82(d)(2)	Failure to remove closed tank from the ground or fill tank with an inert solid for tank closure	\$300
11-281-85(c)	Failure to properly maintain closure or change-in-service records for the required time period	\$300
11-281-94(a)(1)- (2)	Failure to meet the requirement for pre-occurrence coverage of insurance	\$150

11-281-94(b)(1)- (2)	Failure to meet the requirement for annual aggregate coverage of insurance	\$150
11-281-94(f)	Failure to review and adjust financial assurance after acquiring new or additional USTs	\$150
11-281-95	Use of an unapproved mechanism or combination of mechanisms to demonstrate financial responsibility	\$150
11-281-110(a)(1)	Failure to report evidence of financial responsibility to the director within 30 days of detecting a known or suspected release	\$150
11-281-110(a)(2)	Failure to report evidence of financial responsibility to the director if the provider becomes incapable of providing financial assurance and the owner or operator is unable to obtain alternate coverage within 30 days	\$150
11-281-110(b)	Failure to report evidence of financial responsibility to the director when new tanks are installed	\$150
11-281-111	Failure to maintain: (1) copies of the financial assurance mechanism(s) used to comply with financial responsibility rule, or (2) certification that the mechanism is in compliance with the requirements of the rule or to maintain the records at the UST site or place of business	\$150
342L-6(e), HRS	Failure to renew a variance	\$150
342L-30(a)	Failure to notify the department by December 31, 1989, of the existence of a tank	\$300
342L-30(b)	Failure to notify the department by December 31, 1989, of the existence of a tank taken out of operation between January 1, 1974, and May 19, 1986	\$300
342L-30(c)	Failure to notify the department within 30 days after the installation of a tank brought into use after May 19 , 1986	\$300
342L-30(e)	Failure to notify the department within 30 days of June 18, 1992, whether a person who acquires ownership of a tank after December 31, 1989 still owns the tank	\$150
342L-30(g)	Failure to notify tank purchaser of notification requirements	\$300

^{*} If citing more than 5 paragraphs, cite instead 11-281-52(1)

- # If citing more than 5 paragraphs, cite instead 11-281-52(5)
- @ If citing more than 5 paragraphs, cite instead 11-281-52(6)